Dunlop Commission report fuels more criticism

By Mark Gruenberg
PAI Staff Writer

WASHINGTON (PAI)—The AFL-CIO and union presidents warned that a federal report on labor-management relations may spur formation of "company unions" by proposing to change labor law to allow more leeway for worker-management committees.

Their comments came as the Commission on the Future of Worker-Management Relations, chaired by former Labor Secretary John T. Dunlop, formally released its 70-page report and recommendations to the Clinton administration.

The AFL-CIO and union presidents said Dunlop did not go far enough to protect workers.

Other reactions varied. Republicans who now control the House Economic Opportunities Committee—the old Education and Labor Committee—were "disappointed" by the report's "one-dimensional recommendations" focussing on labor law. The National Association of Manufacturers endorsed the greater leeway for the worker-management committees. And top National Labor Relations Board officials welcomed the report, saying the agency is starting to implement some of its recommendations.

The report recommends changing labor law to allow formation of more joint worker-management committees to tackle safety, health, productivity and other issues. Such committees now often run afoul of the federal labor law ban on "company unions."

Each committee could consider "terms and conditions" of work, as long as those considerations were "incidental" to the committee's main task. The report added "the law should continue to make it illegal to set up or operate company-dominated forms of employee representation."

Other key commission recommendations included holding union elections within two weeks of valid requests, immediate injunctions against companies which violate labor laws, and new dispute resolution methods—including arbitration—for first contracts.

Changing labor law to allow the worker-manager committees would involve changing section 8(a)(2) of the 1935 National Labor Relations Act (NLRA), which bans company unions. The AFL-CIO and union presidents strongly denounced that idea. So did commission member Douglas Fraser, the former Auto Workers president.

"Rather than referring this matter to Congress, we should ask the NLRB for clarification" of the worker-management committee issue, Fraser said. "And you cannot have true cooperation in the workplace unless labor and management are equals."

The AFL-CIO said "the best way" to address workplace, income and productivity problems the commission studied is to "give workers a strong voice in decision-making through democratic unions of their own choosing."

"Real employee voice means democratically elected representation. ... Their recommendations on workplace committees would allow the boss to decide who represents the workers," the federation said. Such boss-selected representation is "hollow."

International union presidents were also upset:

• Auto Workers President Owen Bieber said the way to achieve greater worker participation in decision-making "is by making it easier for workers to organize and bargain collectively, not by making it easier for employers to resist unions either by brutal repression and delaying tactics or by setting up phony workers' organizations as a substitute for genuine worker power."

Letting employers pick the workers' representatives on labor-management committees "would make a mockery of the concept of worker voice in decision-making," Bieber added.

• Steelworkers President George Becker said the report "turns back the labor law clock by 60 years, suggesting that the boss can decide who speaks for workers on workplace committees. Clearly, this is not what Franklin D. Roosevelt foresaw when he created the NLRA."

"Since 1935, it has been the law of the land...that the boss can't decide who serves as the workers' spokesman. It made sense back then, and it makes sense now. We will fight any attempt" to change that law, Becker added.

• Food and Commercial Workers President Douglas Dority feared the new GOP-led Congress could "politically manipulate" the report to repeal the ban against company unions while ignoring everything else. "That would do more harm than good," agreed commissioner Thomas Kochan, a professor of management. "Unionized workplaces are the most likely to have successful, ongoing worker-management cooperation programs, to increase productivity, and to have higher wages and benefits," Dority added.

• Service Employees President John J. Sweeney added that "when employers designate who sits on both sides of the table, it is sham, not real, worker representation."

• Communications Workers President Morton Bahr said the report doesn't go far enough. "We don't see the recommendations as going to the root of widespread worker fear and employer intimidation," Bahr said. "We don't believe workers want their bosses picking and choosing the workers' 'representatives.'"

• Machinists President George Kourpias criticized the commission for "doing little to make union representation more easily accessible to workers, nor to address the current imbalance of power" in the workplace. The report was silent on obstacles to union organizing, outlined last year by the AFL-CIO Organizing Dept.

• Laborers President Arthur Coia said Dunlop's report "fails to come to grips with the legal and practical barriers that now inhibit worker activism—barriers we have long since ceased tolerating in civil rights."

• AFSCME President Gerald McEntee agreed with his colleagues that "the best way" to workplace cooperation is for workers "to have representation of their choice." He said Dunlop "should have stated unequivocally that we need to clamp down hard on manipulative, threatening and illegal anti-union campaigns that are too common in this country."

• Commissioner Paula Voos, an economist, agreed. "Right now the law is being widely violated and it's not always being enforced," she said. When employers illegally fire workers for organizing, "they're ordered to post a notice" under the law. "Big deal," Voos said.

Decatur workers gain support

Striking workers from three companies in Decatur, Illinois, march on the state capitol in Springfield to demand government intervention. Local union presidents representing strikers at Caterpillar and Bridgestone/Firestone and locked out workers at A.E. Staley met with Labor Secretary Robert Reich Jan. 10 to discuss the disputes. The Staley workers also gained the backing of a national coalition of religious leaders that is circulating a letter calling for an end to the 19-month lockout.

Star Tribune
Tuesday
January 10/1995

The workplace

U.S. panel proposes changing work rules

Group sets 'goals' for 21st century

Washington Post

Washington, D.C.
The U.S. workplace has become the central institution of the nation's society, reflecting our racial and ethnic diversity and the changing economic role of women. It is where the nation distributes 90 percent of its wealth — and it is governed by a set of basic rules little changed in more than a half-century.

So noted the presidential Commission on the Future of Worker-Management Relations on Monday as it proposed new workplace rules for the 21st century.

The panel listed 10 "goals" to help position the U.S. work force and economy for the rigors of the coming century. They ranged from expanding employee participation in labor-management partnerships and making it easier for employees to choose union representation to decentralizing control over government rules and upgrading the lives of so-called "contingent" workers, the 25 percent of the work force with no permanent tie to an employer.

"We are commencing a terribly important debate in this country," Labor Secretary Robert Reich said Monday. Commerce Secretary Ronald Brown, who, with Reich, commissioned the report, said it "addresses what the workplace of the future could be."

But change isn't easy. The report drew immediate condemnation from both business and labor — for different reasons. What labor liked, business called "disappointing" and "flawed." What business liked labor generally condemned. This was particularly true of the commission's recommendation that federal law be changed to allow businesses to set up and control labor-management cooperative teams.

Under current law, such committees are legal only if workers can select their representatives and have a say in the decisions. Unions accused the committee of trying to take the workplace back to the 1930s and the days of company-controlled unions. This change seemed to be the only recommendation that might be approved by the Republican-controlled Congress.

A coalition of women's groups urged commission chairman John Dunlop, the former labor secretary, to delay release of the report until the commission did more to address the needs of the large numbers of women working in contingent jobs. A report issued by the commission in May showed that most of the growth in the U.S. work force since 1950 has been the result of women entering the work force. A majority of working-age women have jobs, and that portion is expected to climb to 63 percent over the next 10 years.

So far, Congress has shown little interest in the commission's work except to allow employer control of labor-management cooperative committees. In addition, the new Republican majority might be interested in alternative dispute resolution, which is being pushed by the business community. Business groups are lobbying for ways to avoid costly lawsuits over sex and racial discrimination and other violations of federal employment law.

Neither Reich nor Brown would commit the administration to any legislative response to the commission report. They only agreed to study it and make recommendations to the White House.

When the commission was formed nearly two years ago, it was the administration's hope that the findings would serve as the basis for a labor law reform package that would foster labor-management cooperation by granting labor enough new organizing powers in exchange for going along with company-controlled work teams.

The issues in dispute Monday focused almost entirely on the rules for unionization and collective bargaining in the workplace at a time when little more than 10 percent of the private work force belong to unions.

NEW YORK TIMES
8-8-93

Administration officials are unsure of the value of labor.

Charles Bennett for The New York Times

"The jury is still out on whether the traditional union is necessary for the new workplace," said Labor Secretary Robert B. Reich.

"Unions are O.K. where they are," said Commerce Secretary Ronald H Brown. "And where they are not, it is not clear yet what sort of organization should represent workers."

LABOR NOTES
JULY, 1993

In a revealing interview with Jim Lehrer on the Public Broadcasting System, Labor Secretary Reich made it very clear that this is where the Administration is headed. Lehrer asked Reich whether it was Clinton's "position that more of the workforce should be unionized." "No," said Reich. "The position is that we don't want to load the deck in either direction..."

You mean, asked Lehrer, "if there's an individual worker or group out there who feel they've got a problem at the workplace, your recommendation to them, as Secretary of Labor, is not automatically go organize or join a union?"

STREET HEAT

Replied Reich: "My first recommendation to management and to workers is come up with ways of working together constructively...I don't care whether you're unionized or non-unionized, labor is going to have a voice.

"You have to have some sort of system for giving it a voice. I don't care whether it's a traditional organized system. Some of the most innovative companies in America have come up with different ways of providing workers with a voice."

In 1935, when the Wagner Act was passed and the NLRB created, these "different ways of providing workers with a voice" were properly branded "company unions"—and outlawed by the Act.

In the 1990s, however, it's clear that labor organizers won't be able to say to workers about Clinton what they did about FDR, "The President wants you to join a *real* union."

That's all the more reason why applying "street heat" to the soon-to-be "Clinton NLRB" is a far better strategy than just waiting for Commission recommendations that may hurt as much as they help. □

[Suzanne Gordon was an organizer of the National Writers Union. She writes frequently about workplace issues.]

Testimony before Reich Commission January 5, 1994

Hi, my name is Elly Leary. I'm a living example of the new world order of global competition. I used to be an auto assembler at the GM plant in Framingham, Massachusetts. I worked there from 1977 to August 1989 when the plant closed and its work was shifted to the new Flint, Ramos Arizpe, Mexico. In 1989, without overtime I was making nearly $28,000 a year. Today, as a full-time secretary at Boston University and member of UAW Local 2324, I make less than $19,000. This lower standard of living hasn't been lost on my children. Several months ago my 14 year old daughter, angrily said, "Why can't you get a job like you used to have, one that pays a living wage." Although I tell her to go to college, this Commission's own figures show this is no guarantee -- incomes of college educated white males are falling too, calling into question the high-skill high-wage economy.

I'd like to address the mission of this Commission, but before I do let me read a quote that accurately sums it up: (I'll tell you later who said it) "Until labor and capital join hands and recognize their interest is a common interest, that what hurts one hurts the other, that what develops the well-being and prosperity of one must of necessity develop the well-being and prosperity of the other" there can be no progress. In other words, LMC is a win-win situation. Another theme heard constantly these days is that workplaces without Labor Management Cooperation plans are war zones where nothing gets done. In contrast is the "cooperative-competitive" workplace where calm, reason and consensus reign. Neither picture is accurate.

My union, the UAW, is in the forefront of Labor-Management cooperation. Does anybody think that before the UAW entered into its new partnership with management that nothing got done, that no cars got built? Our contracts, then as now, set out the "rules" for cooperation in the workplace.

Since "jointness," the GM/UAW name for Labor Management Cooperaiton, we've had a bunch of new rules. I'd like to report on the results from the shop floor perspective. Let me be clear. This has not been the win-win situation we were promised. GM, its top brass, and a small section of union joint appointees have done well, while the

majority of autoworkers have paid dearly. As we said at Framingham, "Cooperation means we give and they take." Let me explain.

Since 1979 (the last GM/UAW contract without a joint structure) worker's real pay has remained flat, but CEO real salary (minus stock options and bonuses) has increased 107.1% Since 1980 45% of GM hourly workers have lost their job, but appointees with superseniority have a job as long as their plant remains open. Productivity has climbed dramatically -- 105.2% between 1979-1989 and 14% a year between 1989-1991. We're not "working smarter," we're just working harder and faster. By 1989 Framingham jobs were so tight that as a skilled operator I didn't have time to retie a loosened shoelace. Profit sharing was supposed to be our reward for this great leap forward in productivity. Our ten year total is under $2,000. Injury rates have skyrocketed.

In 1980 the BLS reported injury rate for auto workers was around 5.3/100; in 1991 it was 28.3/100 or an increase of 434% Most of you don't know what it's like to have carpal tunnel or some other autoworker disease from reptitive motion. At some point in their career, virtually everyone in my Soft Trim department has had one. Carpal tunnel means waking up with your hands like claws and running them under hot water until they open up. It means dropping dishes, because suddenly your hands just don't work. And now, 4 years and many hours at the computer later I still have trouble.

But jointness has had even more serious consequences. It has damaged my union almost beyond recognition. The 1982 contract reopener had the first jointness structures -- 3 national committees, 2 of which also operated at the local level. By the 1990 agreement GM and the UAW were "fully integrated" with 9 national level joint committees, 10 national sub-committees, 8 local-level committees one of which had three sub-committees reporting simultaneously to all three levels. None of the committees have any elected representation, nor are they accountable to the membership, yet they make decisions that directly effect rank and filers: like where to put laid-off employees, limiting seniority rights, and reassigning/adding work to fellow union members. This entire juggernaut is financed by corporate overtime penalites which were supposed to limit overtime and save jobs. Instead, we got fewer and fewer workers working harder, faster and more overtime, while the union leadership got more appointees

to feed their bureaucracy not the assembly line. This explains why the union leadership likes jointness so much.

Another trend has been to push aside grievances handled by elected reps in favor of joint consensus handled by unaccountable appointees. My committeeperson told me point blank, "We don't file grievances anymore." Now this may sound like nitpicking, but grievances can end up with an outside arbitrator if the sides can't agree, or if management doesn't follow through. But consensus doesn't have this arbitration step. The union is totally dependent on management's "goodwill" to get things done for members. In the final analysis it means the only things that ever get acted upon are those that management wants to do in the first place.

There are not so subtle ways that our union's independent agenda has been snuffed in favor of "securing GM's market position." One has been union acquiescence while GM closes US plants and invests like crazy in Mexico where GM is now the largest the private employer with over 56,000 workers. In the case of Framingham's closing no grievance was filed even though the "idling" clearly violated the contract. We had academics, lawyers and think tank folks from Detroit to DC agree with us. Only the small town of Ypsilanti, Michigan has stood up to GM.

Another shop floor reminder that cooperation means carrying out the company agenda has been in the area of "employee participation" in the "new partnership." At GM participation has the illusion, but not the substance of either power or democracy. We get to lay out work areas, but the size of the workforce has already been decided. We get to make quality suggestions, but not decide about investments, CEO compensation, or the price to the consummer. At Inland Fisher Guide in Indiana and Corvette in Kentucky workers are pulled off the assembly line and told to reassign the workload of 10 people, but with only 8 workers. In other words, we get to decide whether we're hung or shot.

Individual workers and members' rights need to be protected and expanded: joint decisions need to be voted on and all representatives need to be directly elected. This is more important in a non-union workplace.

There are other examples that I could give, but since time is short I will refer you to a recent pamphlet I co-authored and am making available to the Commission, Jointness at GM: Company Unionism for the 21st Century. This brings me neatly to my conclusion. If the current passion for Labor Management Cooperation continues, my fear is that our labor movement will resemble the company unions that covered 93% of steel workers in the early 30s. Already jointness has broken our union. Instead of power sharing we got power shifting, first from the rank and file to the union bureaucracy and from them to the corporation.

I remember when belonging to a union meant job and financial security and having an organized voice that actively fought for the good of the majority, not the corporate bottom line. If we followed the corporate agenda as we are being asked to do today, we would never have gotten social security, unemployment insurance, the 8 hour day or indeed, a decent standard of living for working people. We need 8(a)(2) more than ever.

One final note about the Commission's hearing today. While I am thankful for this opportunity, a number of my co-workers aren't here because they couldn't take off work. Scheduling hearings at this time makes us working people feel like you're not that anxious to hear from us, or worse, that the jury is already in.

By the way, do any of you know the author of that quote about cooperation being a win-win situation? John D. Rockefeller said it in 1915 when he inaugurated that granddaddy of all company unions, the Colorado Industrial Plan at the Ludlow mines, just weeks after the massacre of women and children of striking miners.

Thank you for your attention.

Testimony before Commission on the Future of Worker/Management Relations, January 5, 1994

VIEWPOINT

The Team Concept and 'The Bridge on the River Kwai'

by Jean-Pierre Daubois

It was re-watching the magnificent film *The Bridge on the River Kwai* that led me to draw the following parallel with the labour movement.

The film is about British prisoners of war in Southeast Asia during World War II. They cannot escape because they are in the middle of a jungle. Their Japanese captors are forcing them to build a bridge, to supply the Japanese troops. The prisoners try to sabotage the bridge, but the Japanese react brutally.

A British officer suggests a deal to the Japanese commander: in exchange for an end to the brutality, he will put his engineers and men to work on the bridge and faithfully transmit the camp commander's orders.

Slowly but surely, a relationship of confidence is established between the Japanese commander and the British officer, who increasingly forgets that he is a prisoner. His pride in "his" bridge grows daily. He believes he has recovered his dignity as an officer. He is listened to once again.

PRISONERS OF COMPETITION

Auto workers, like almost all workers, are prisoners of the laws of competition—a situation which is getting more severe with the globalization of the world economy. They have always fought for their dignity, for better living conditions, often by raising hell inside the plants.

During the 1980s, the corporations used Japanese competition and the threat of plant closings to impose a "bridge" between the union and the companies. The necessity of competitiveness became part of a certain union philosophy that claimed we had no choice but to ally ourselves with the company, to share corporate objectives in order to avoid further plant closings.

The corporations used the threat of plant closings to impose a 'bridge' between the union and the companies.

Of course, the companies claimed that if we accepted the concept of teamwork, the workers would recover their dignity and be "listened to." The fact is, the more jobs they export, the more they claim that workers have to share the fate of "their" companies. The auto companies are using the money they save from union concessions to invest in Mexico.

Getting back to the film: the British prisoners of war get hooked on "their" bridge: no more sabotage, the officers are hardly needed any more, the British commander's authority is re-established as he transmits the Japanese commander's orders.

TRANSMISSION BELT

Sound familiar? Many union officers have fallen for the "jointness" trap and become transmission belts between the company and its workers. They don't have to work hard anymore, they are "listened to" instead of being ridiculed. They have developed a good relationship with the company, having forgotten that in a lot of relationships, at least one person is getting screwed.

The bridge is eventually finished and the British officer is invited to dine with the Japanese commander. He believes he has given his men their dignity back. But at the other end of the jungle, the war is still raging. The British command, worried about the potential impact of the bridge on the course of the war, sends out a commando unit to destroy it. The commandos mine the bridge with explosives and wait for the inaugural train carrying Japanese dignitaries, intending to blow the whole thing up.

In spite of what some believe, the war is still going on between the auto workers and the companies in Mexico, in the USA, in Canada, and in Quebec. The workers in each country quite often feel they are trapped in a jungle and cannot communicate with each other. However, there do exist commandos in each country, like *New Directions* in the USA. They are trying to blow up the "bridge" that has totally screwed up our union traditions and led to our being helpless in the face of company strategies, such as "whipsawing," which only serve to divide us.

SAVING THE BRIDGE

In the film, the British officer, while proudly walking on "his" bridge, sees a cable in the river. He follows the cable and discovers the commando waiting with the detonator. He flies into a rage at the idea of "his" bridge being blown up.

The UAW leadership seems to be acting the same way, more interested in fighting the opposition within the union than in fighting the companies.

The commando waiting with the detonator cannot understand why this officer from his own side wants to stop him from blowing up the bridge so badly that he is willing to attack one of his own men.

The Japanese, alarmed at the scene, open fire and kill the young soldier. The rest of the commando unit opens fire on the British officer, who is mortally wounded. Dying, he realizes to his horror that, in fact, he has become a traitor. He falls on the detonator and blows up the bridge.

Owen Bieber may be "socially dead" as a labour leader, but he doesn't even have the decency to fall on the detonator. □

[Jean-Pierre Daubois is Canadian Auto Workers Local 1163 skilled trades chairperson (GM—Boisbriand, Quebec) and a member of the CAW-GM master bargaining committee. He can be reached at Local 1163 CAW/TCA, 82 Grande-Cote, Boisbriand, Quebec J7G 1C3. Phone (beeper) 514/749-4504.

[This article was translated by Sydney Payne.]

Star Tribune/ Monday/August 23/1993

Worker skepticism about 'cooperation' well-founded

By Peter Rachleff

Cooperation is the hottest concept in 1990s labor-management relations.

Its advocates include 80 percent of the 1,000 largest U.S. firms; hundreds of consultants, university-based industrial relations programs and arbitration and mediation services; Commerce Secretary Ron Brown, Labor Secretary Robert Reich and even President Clinton.

Some of the Twin Cities' largest employers have developed cooperation programs — Burlington Northern, Ford, 3M, Unisys, Health One and Northwest Airlines. So, too, have public employers, from the U.S. Postal Service to state, county and local governments. A number of agencies, such as the Governor's Council on Quality and the Twin Cities Area Labor Management Committee, promote these programs.

According to their advocates, cooperative programs help companies compete, both in the global marketplace and against other domestic companies. They bring quality and zero defects to production and services. They reduce costs and increase profits while improving the quality of work life for the average worker.

Sounds great! Yet, in our factories, offices, railroads, mills and mines, most workers remain skeptical.

Workers have found that these programs have not saved jobs.

"Workplace revolution boosts productivity at cost of job security," proclaimed a Wall Street Journal article on March 10. A week later, another Journal article predicted that the transformation of U.S. workplaces could lead by the end of the century to the elimination of 25 million of the 90 million private-sector jobs that now exist.

Recent layoff announcements by companies that have been visible proponents of cooperation have added to worker doubts.

At Burlington Northern, brakemen, switchmen and conductors have lost jobs as crew sizes have been cut in half in the past two years. Clerks in St. Paul have seen their numbers dwindle from 1,400 to 600 since 1980. Shop workers — electricians, sheet metal workers, boilermakers, machinists and the like — have lost work to subcontractors.

At Ford, 100,000 jobs have been eliminated in the past decade. The Postal Service expects to cut 50,000 jobs in the next three years.

Cooperation has not delivered a new, improved workplace. Contending with quality and zero defects standardizes the routine of most jobs while increasing the responsibility workers must shoulder. Recent studies point to rising stress levels in all sorts of workplaces, with concurrent increases in maladies from migraine headaches to repetitive trauma disorders.

From Ford's assembly line to Burlington Northern's customer service offices, scars and wrist braces testify to carpal tunnel injuries. Corporate reorganization, such as the railroad's plans to consolidate train dispatching and customer billing in Forth Worth, Texas, hangs like a dark cloud over workers' heads.

In postal facilities, new technologies will eliminate some jobs while radically transforming others. Postal workers, from sorting clerks to letter carriers, have told me of their fear of being "excessed," of having to move in order to remain employed.

"Flexibility" in job assignments is often a goal of cooperation programs. But what sounds good in theory often undermines workers' efforts to bring order and fairness into their daily work lives.

At Ford, the reduction of job classifications makes it harder for older workers to use seniority to hold on to easier job assignments.

At Burlington Northern, track repair workers are assigned to gangs that take them greater and greater distances from home. "Our lives increasingly resemble those of migrant workers," one track worker said.

Cooperation with management means competition with other workers. Such competition — one auto factory against another, rail workers against truckers, U.S. workers against Mexicans or Canadians — leads to a lowering of standards for all the workers concerned. Wages fall; benefits are reduced; health, safety and environmental protections are relaxed. Conditions for workers deteriorate while productivity, profits, and executive compensation rise.

The employers who have adopted cooperative programs have cut their labor costs and raised their profits. But these gains have not been shared with workers.

The Postal Service routinely distributes bonuses to supervisory personnel while calculating them as part of "labor costs." At Burlington Northern, hundreds of thousands of dollars in bonuses have been paid to executives while wages and benefits have fallen behind the cost of living. The Rail Labor News, a union newsletter in Bismarck, N.D., computed railroad CEO Gerald Grindstein's 1992 compensation at $1,000 per hour. At Northwest Airlines, during recent concession negotiations, management insisted on its right to reward corporate officials with bonuses while slashing workers' wages.

Cooperation has not brought new respect for workers. Supervisors and labor relations personnel still hand out discipline in a high-handed manner. At Northwest Airlines, for instance, management unilaterally changed its absenteeism policies during the Christmas-New Year's holiday, giving workers two "strikes" (out of a possible three in a 12-month period) for missing work without a doctor's note.

Nor has cooperation brought a new "partnership" into being. In March, Burlington Northern management rejected a General Chairman's Association (union leadership) proposal for a quality program that had two conditions: no job loss due to quality program work practice changes, and equal sharing of all program benefits with all employees.

These experiences suggest that worker skepticism toward labor-management cooperation programs is well-founded.

About the author

Peter Rachleff is a labor historian and associate professor of history at Macalester College in St. Paul. He is chairman of the Meeting the Challenge Committee, a coalition of Twin Cities union activists that seeks to educate workers about labor-management cooperation.

Are These Words in Danger?

It shall be an unfair labor practice for an employer...to dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it...

National Labor Relations Act
Section 8 (a) (2)

AFL-CIO May Trade Away Law Against Company Unions

by Mike Parker and Jane Slaughter

Many people think that President Clinton's Commission on the Future of Worker-Management Relations is about labor law reform. It's not.

When the Commission—sometimes called the Reich Commission after the Secretary of Labor, or the Dunlop Commission after the former Labor Secretary who chairs it—was appointed, union activists hoped it would undo the years of anti-labor rulings of Reagan-dominated courts and boards.

But leveling the playing field so that unions have a fair chance to win organizing drives is not part of the Commission's job description. Although Commissioners listen politely when workers tell them how few newly-organized unions ever get first contracts, that problem is not their assignment.

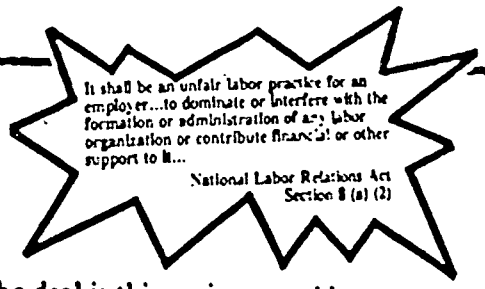
No, the Commission's job is to increase productivity, and in a very particular way. The Commission's "mission" is to investigate:

> What (if any) new methods or institutions should be encouraged, or required, to enhance workplace productivity through labor-management cooperation and employee participation?
>
> What (if any) changes should be made in the present legal framework and practices of collective bargaining to enhance cooperative behavior, improve productivity and reduce conflict and delay?

With this as a mandate, the only connection the Reich Commission has to labor law "reform" is to clear away any legal obstacles to employers' efforts to reorganize the workplace.

You might say that its assignment is to "deregulate" labor-management relations.

However, in spite of the Commission's clear official agenda, the labor movement is pushing it to recommend more traditional labor law reforms to Congress. And some in the AFL-CIO have a plan for how to win this: in the fine tradition of bargaining, they will get something they want, and in return give business something it wants.


It shall be an unfair labor practice for an employer...to dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it...
National Labor Relations Act
Section 8 (a) (2)

The deal is this: unions would not oppose changes in Section 8(a)(2) or 2(5) of the National Labor Relations Act (we'll call it 8a2 for short). These sections prohibit management-dominated labor organizations, which used to be called company unions. Companies would get the green light to form and control workplace organizations of any kind.

In return, unions would get "card check": the right to represent workers if a majority signs union cards, without having to go through an election.

Unions have good reason to want card check; they now win less than half of representation elections, which often occur after much stalling by employers and lengthy legal battles. And once unions win elections, getting a contract is another story. More and more employers are just refusing to bargain; over 40% of unfair labor practice charges against employers are for this reason. Thus some unionists also want compulsory arbitration of first contracts when a deal can't be reached through bargaining.

WHAT DO EMPLOYERS WANT?

Why are employers interested in getting rid of 8a2? They claim it's because 8a2 could interfere with cooperative programs to improve quality and productivity.

Twice recently, the National Labor Relations Board has ruled management-dominated employee committees illegal, in *Electromation* (1992) and *DuPont* (1993). Immediately, the business press was filled with hysterical calls to change the law so as not to hurt the cooperation programs that management had already installed in every corner of every industry.

Eleven members of Congress signed a brief in *Electromation* warning that 8a2 "sounds a potential death knell for what could be the key to economic rebirth."

The Commission's assignment is to 'deregulate' labor-management relations.

These calls were one reason why the Reich Commission was set up. At hearings of the Commission, representatives of companies considered models of labor-management cooperation have testified about the beauty of their efforts.

But if you look at the record, this employer hysteria is off the mark. Neither *Electromation* nor *DuPont* was about labor-management cooperation to improve quality. Rather, both cases were about management attempts to set up and dominate employee organizations.

At Electromation, the company's "action committees" helped defeat a Teamsters organizing drive. At DuPont, management dealt with its "safety and fitness committees" over the strong objections of the existing union there.

Labor educator James Rundle, speaking at a recent conference on labor law reform, emphasized that the NLRB is not on a rampage to disband quality/productivity committees. In fact, Rundle's research found that the Board has not disbanded one such committee in the past 22 years.

Rather, when the Board has ordered management-dominated employee organizations disbanded it has been for one of two reasons: (1) management formed or used them in response to organizing activity; or (2) a union existed in the workplace but the employer dealt with its hand-picked committee instead. This is exactly the type of employer domination that 8a2 was written to disallow.

However, although neither unions nor rank and file workers have used 8a2 against cooperation programs thus far, they could. The reasons, attorney Ellis Boal believes, that so few 8a2 charges have been brought against cooperation programs are: (1) workers in non-union situations are not aware of the law; and (2) unions have not understood their rights or have bought into particular cooperation arrangements.

Naturally, employers don't like it when the NLRB says they can't set up company unions to try to keep a real union out. And in unionized situations, they don't like the fact that even without taking a case to the NLRB, unions can use the law to stop—or force management to bargain over—the conditions of a participation program.

It is this restriction on their right to do whatever they want that drives the employers' attack on 8a2.

IS THERE A DEAL?

No deal has been set in stone, and there is plenty of controversy within Washington circles of the labor movement over what tack to take. But talk of giving up 8a2 is definitely in the air.

In October, the AFL-CIO and Cornell University sponsored a conference on labor law reform for labor academics and union staffers and officials. Most speakers who talked about 8a2 opposed giving it up. But Larry Gold, chief counsel to the AFL-CIO, warned participants not to get excited about preserving 8a2.

Not Everyone Is Signing On...

At least one union is not buying the Reich Commission's brand of soft soap. OCAW President Bob Wages sent a letter to his local presidents warning them to look out for the Clinton Administration's vision of the "Workplace of the Future":

> Apparently, in the view of the Clinton team which is also a reflection of the prevailing view of Corporate America, in the workplace of the future, workers will, or should, subordinate all their other interests to a single interest: that the company should thrive and survive so that they can hold on to their jobs. In that light, they will not want, or perhaps need, an adversarial organization.
>
> Also, since that single interest of job security is entirely compatible with the survival of the company and the key strategy is cooperation, the workers might even be willing to accept a company-dominated organization.
>
> Such a view is narrow, unrealistic, and patently absurd. First of all, there are other interests of workers... Many of them, like having an independent voice, dignity, and recognition of long-standing service, are just as important as job security. And some of these, like voice and dignity, cannot be bestowed by the company—they can only arise from a workers' organization...
>
> Secondly, all the evidence indicates that the workplace of the future greatly increases job *in*security...
>
> My bottom line purpose is to sound a warning... Just because there is a Democrat in the White House doesn't mean policies will be worker and union friendly...
>
> Whether it's the companies or the Clinton administration approaching with "come along, git along" programs, our first question should be: How will this affect the union—will it make it stronger or weaker?

Gold warned that it is difficult to defend unions at all before conservative judges, implying that judges might be more friendly to some other forms of employee organization.

Speaking at the North American Labor History Conference in Detroit, October 15, John Zalusky, head of the Office of Wages and Industrial Relations in the AFL-CIO's Economic Research Department, said that the Reich Commission favors changing labor laws to permit some kinds of company unions. Zalusky said that this would be positive for union organizing.

At the same conference, Robert Potter, president of UFCW Local 951 in Michigan, argued that the labor movement has to be willing to bargain, and that gaining card check in exchange for giving up 8a2 is a good deal.

But is it?

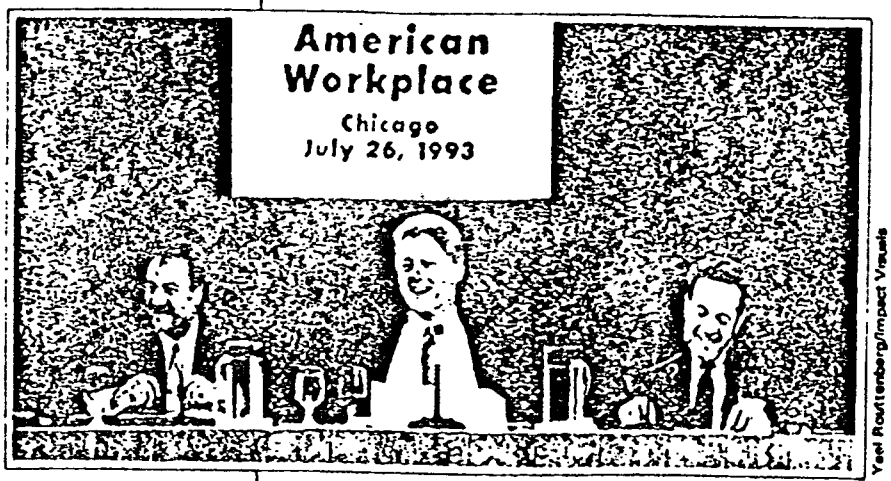
When Congress passed the National Labor Relations Act in 1935, it recognized that workers' interests and management's are in conflict. It sought to stabilize the conflict by making rules for bargaining over these interests.

BAD FOR THE UNORGANIZED

Even Congress could see that crucial to workers' right to organize *themselves* was the right *not* to be organized by the boss into fake workers' organizations. The experience of the early 1930s showed clearly that company-created employee groups were an obstacle to real unions.

The National Industrial Recovery Act of 1933 gave employees the right to organize. But nothing in the law prevented company unions. So employers began lining up to have their company unions certified—thus keeping real unions out.

Giving up 8a2 would allow the return of such fake organizations



Yael Rovitzberg/Impact Visuals

The Commission on the Future of Worker-Management Relations was organized by President Clinton. It will present a report to Commerce Secretary Ron Brown (left) and Labor Secretary Robert Reich (right) in the spring.

What is the Reich Commission?

Who are these Reich Commissioners whose responsibility it is to make recommendations to Congress about labor law?

They are three former Secretaries of Labor (both Republican and Democratic), one former Secretary of Commerce, four academics, one ex-union president, and one corporate CEO. All are committed to one form or another of management-employee involvement programs as the basis of future work relations; that's why they were chosen.

There are disagreements on the Commission, however. On one end of the spectrum are those who think unions are or should be irrelevant. The future, they think, belongs to cooperation schemes. On the other end are those who are equally pro-cooperation, but think unions should have some role.

Commission member Doug Fraser, former UAW President, is in the latter camp. He said, "I am convinced that you cannot have a cooperative, collaborative relationship unless there's equal partners, equal power. Now, without a union you can't have that equal power, you can't have that equal partnership."

Thus, according to one source, Fraser and Professor Paula Voos are the most pro-union. They favor traditional labor law reform to make it easier for unions to organize.

Secretary of Labor Robert Reich falls at the other end. Those who know Reich personally say he believes unions are an anachronism. These old institutions smother workers' creativity, according to Reich; they need labor-management participation programs to give them a chance to express themselves.

HEARINGS

The Commission is holding hearings around the country in preparation for its report to the Secretaries of Commerce and Labor next year. In each city, witnesses have been carefully chosen to tell the Commission what it wants to hear about labor-management cooperation: it's a great thing, and there should be more of it.

These speakers are both workers and managers. For example, at the October 13 hearings in East Lansing, Michigan, there were worker and management speakers from two unionized companies and two non-union ones.

Voos asked the representatives from the non-union Donnelly Corp., a well-publicized model of cooperation, whether they were concerned that their program might violate the current law.

Kay Hubbard, Donnelly's Advocate for Human Resource Development, answered yes, they knew about the probable violations. But they felt they had to take that chance in order to increase productivity. The point was made: obviously a law that threatened such an important concern had to be changed.

At the hearings in Louisville September 22, Randy Pidcock, president of USW Local 15523, talked about the success of cooperation at Buckhorn, Inc. In some years we have no grievances, said Pidcock; in some years we have one. Buckhorn, he boasted, has won the Corporate Citizen of the Month award several times.

"Attention to striker replacement and card check recognition," Pidcock warned, "would divert attention away from the important issue of being competitive in the global economy."

After the arranged testimony, others are allowed to speak. And most of these, interestingly enough, have not praised worker-management cooperation. Instead, both union members and non-union workers have testified about experiences where management was anything but cooperative—and the law gave unions little help.

In Louisville, nurses reported being blacklisted by area hospitals for trying to organize a union. A former member of management at Alliant Health Systems confirmed that this was so. He said that during the union drive, job assignments were made not based on concerns for patient care, but only to make organizing harder. Employees were under surveillance both on and off the job.

The nurses told the Commission they wanted card check and curbs on union-busting consultants.

Ironically, in the morning session, the CEO of Alliant had testified that his "key corporate strategy" was "employee involvement" through "Quality Improvement Teams." Team members, he said, received training, encouragement, and recognition. Especially recognition. □

—Mike Parker & Jane Slaughter

[The Commission is planning meetings in San Jose in December and Atlanta in January. Monthly meetings are also scheduled in Washington, D.C. On its own, the Commission will not likely schedule panelists to testify about cooperation programs that led to union-busting, like those at Caterpillar or Staley.

[Interested unions and activists should ask to be on panels, or go and testify from the floor. The Commission's number is 202/219-9148.]

What the Law Says Now

by Ellis Boal

Sections 8(a)(2) and 2(5) of the National Labor Relations Act give unions considerable power in dealing with quality/cooperation/employee involvement programs. *Electromation, DuPont,* and other recent NLRB actions show that even though employers are working hard to change them, these parts of the law are still very usable.

Even if changed eventually, they will likely remain in place for a year or two. Employer conduct committed today will be judged under today's law, even if new legislation comes in tomorrow.

A thumbnail sketch of today's law follows. The bottom line is that under the current law virtually all real-life programs are illegal without union approval, and some may be illegal even if the union acquiesces. A program set up unilaterally will be struck down by the NLRB.

Remember: though legalities are important, any legal strategy is immeasurably advanced by an overall union strategy of developing an educated, mobilized, and informed workforce.

- An employer may not dominate or assist a team, circle, or task force that is a labor organization, or any other "labor organization."
- Domination can take many forms: controlling the membership of the team, funding of team activities, paying for members' time in the team, requiring supervisory personnel to be present in team meetings, controlling the team agenda, controlling the facilitator or training, giving extra perks to the labor-side members, prohibiting labor-side caucuses, prohibiting distribution of team information to the rank and file, adopting a consensus decision-making procedure. Having no team dues, officers, or structure is a further indication of employer domination.
- It is only a "labor organization" which the employer is forbidden to dominate. A labor organization is any body (1) in which employees participate and (2) whose purpose, at least in part, is to "deal" with the employer about wages and or working conditions.
- A union is a labor organization, and employers may not dominate unions. But teams may also be labor organizations susceptible to domination.

DEALING

- "Dealing" does not necessarily have to be "bargaining." A team can be a labor organization dealing with management about working conditions even though it has no contracts and does not try to bargain contracts.
- "Working conditions" cover a broad range, and can include matters that may not be in the contract. If the team also goes beyond working conditions and gets involved in management prerogatives like product quality or design, it can still be a labor organization.
- A team can be a labor organization even if it has supervisors in it.
- The NLRB has not decided whether it is a necessary part of the definition of a labor organization that a team's members subjectively interact with, or "represent," the workforce.
- Neither a "work crew," where workers participate only as individuals, nor a "brainstorming session," where workers spin out ideas but do not necessarily expect or get any management response, are labor organizations.
- A body which is merely a subcommittee of a recognized union and which has no separate existence is not a labor organization.
- A bipartite joint committee engaged in ongoing collective bargaining or grievance handling is not a labor organization, though its labor-side members may be. Rather, a joint committee is an ongoing coupling or meeting of two distinct sides, each with their own constituency.

JUST SAY NO

- It is bad faith bargaining under Section 8(a)(5) of the NLRA for a company to set up an employee involvement program against a union's wishes. A recognized union has the absolute legal right to "just say no" to company proposals for EI, and to strike over the issue.
- Any cooperation program, to be legal, must be agreed to through formal collective bargaining. There must be a union presence in each team established, and the team must conduct itself as a bipartite bargaining session in miniature. Management should not see a collection of individuals on the other side of the table; it should see the union.

As in any other joint committee, the labor-side members of each team should have and exercise the right to caucus separately as frequently as necessary. They should think of themselves as acting for the union and bargaining unit as a whole, with their decisions subject to membership review. The composition of the labor side is an internal union matter with which the employer may not interfere. A union is privileged to appoint only union members.

- The union is the exclusive representative of the workers in its unit. If a union allows a team to function autonomously without union monitoring or without a union presence in each team, the team may emerge as an illegal dual power on the floor. A team unconnected to the union may itself be charged as a dominated labor organization, and the union may be charged for failure to represent for allowing the team to exist.
- Concerted worker agitation for or against a cooperation scheme, and agitation within a team for better conditions, remains protected activity. Provided members continue to obey direct orders, they may not be fired for organizing, educating other members, and speaking their minds.
- Workers who participate in teams as management-appointed leaders or facilitators may find themselves ruled to be supervisors without union protection. Elected leaders have been held to be on a different footing.
- Workers and/or unions suspicious of teams as company-dominated organizations on the shop floor may challenge them in the grievance procedure or at their local NLRB office. To file at the NLRB, simply file a charge giving the date of the conduct and outlining the facts in a few sentences. A lawyer is not necessary. There is no filing fee. The statute of limitations is six months. □

[Ellis Boal is a Detroit lawyer. He has written Labor Notes' legal briefs on cooperation programs.]

that, according to James Rundle, have "historically proven to be a potent anti-union device."

If the prohibition against company unions is weakened, Rundle told the AFL-CIO's conference, "a future generation of organizers may scorn us for it."

Changing 8a2 would have great symbolic significance—especially if it happens with the labor leadership's consent. "If we gave in to that," said one labor educator, "it would be like saying to management, 'Here we are, come get us, we'll lie down and play dead.'"

Changing 8a2 would weaken one incentive companies have had to consult with their unions about quality programs. Employers would read such an action as greatly expanding management's rights. The trend toward top-down design and management domination of these programs would be accelerated.

WHY GIVE IT UP?

Why, then, are some union leaders ready to throw 8a2 out?

The answer lies in their acceptance of the "competitiveness through cooperation" strategy. They have bought the idea that unions need to help companies compete, and that therefore management needs a free hand to reorganize the shop floor.

Under this view, there is no reason for a union to object to management-dominated worker committees or circles. In fact, so the argument goes, these committees will actually help management to pursue its interests even better, because they will get workers' valuable input into how to increase productivity.

The trade-off boils down to this: management will get a completely free hand in the workplace. Unions will get the opportunity to sign up more members.

If the deal goes through, unions are trading away their right to actually *represent* their members and organize them on the shop floor, for the right to collect dues from a larger number of people. You might say they are trading off quality of representation for a greater quantity under contracts.

This deal is especially ironic when you consider that just a few months ago, the anti-scab bill was at the very top of the AFL-CIO's legislative agenda. On June 27, the *New York Times* called the bill "the defining labor issue of the young Clinton

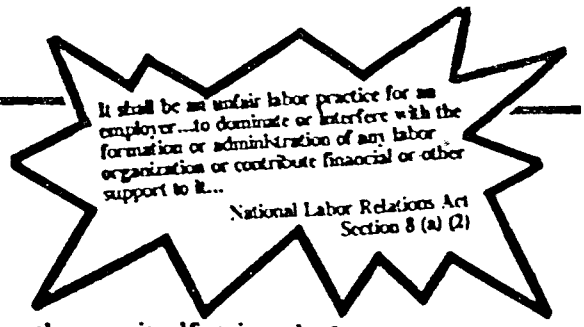
Presidency."

But the demand to ban scabs implies adversarial relations and strikes. Today, to all appearances, anti-scab legislation is not even on the AFL-CIO's back burner.

Just as on health care reform, the AFL-CIO has allowed the Clinton Administration to set the agenda.

The irony about the bargain some are pushing for is that very likely they will not get even that. Even if the Reich Commission were sympathetic to it, Congress is not.

Given the balance of forces there, the labor movement could well find itself stripped of 8a2 and with nothing to show for it in return. □


It shall be an unfair labor practice for an employer...to dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it...
National Labor Relations Act
Section 8 (a) (2)

How One Company Is Using a Modern 'Company Union' to Keep Out the CWA

On October 13, Andrew Rivers, an NCR/AT&T field engineer explained to the Reich Commission precisely how anti-union employers use modern versions of company unions to keep out real unions.

Rivers has worked for NCR, servicing retail computer equipment in the Detroit area, for 15 years. He is a leader of the National Association of NCR Employees (NANE), an organization of dues-paying NCR employees which is working to improve conditions and win union representation at the company. NANE is affiliated with the Communications Workers of America. It is organizing in 40 cities, and so far has established 22 local branches. Here is an abbreviated version of what Rivers told the Reich Commission:

★ ★ ★ ★ ★

by Andrew Rivers

As part of NCR's union avoidance strategy, they created the "Satisfaction Councils." The Councils were created in early 1992, at the same time as union elections were occurring in Dayton and Indianapolis. Management realized that there was dissatisfaction. To head off support for CWA, they created an employee organization of their own—that they could control.

The structure of the councils is that field engineers raise issues through their zone councils. The worker who is selected as a zone leader conducts the meetings with the zone management present as an "advisor." Issues that can't be resolved in the zone are escalated to the district, then region, then to the National Satisfaction Council.

While some of the issues relate to quality and customer satisfaction, others address working conditions, wages, benefits, etc. For example, *The Window*, a company newsletter, describes how the expense allowance for employees out of town at our training center was increased from $22.50/day to $25/day, "thanks to the Satisfaction Council."

Minutes for the regional Satisfaction Council that includes my office list the issues that are being worked on by the Councils in the region. The eight-page list could easily be a union bargaining survey. It includes: benefits, overtime, performance appraisals, and training.

NLRB COMPLAINTS

NANE/CWA has filed unfair labor practice charges in three cities. In both Dayton and Indianapolis, the NLRB issued complaints stating that the Satisfaction Councils violated Section 8a2 of the National Labor Relations Act (the third charge is still pending).

'The company refuses to meet with union leaders, but provides their Satisfaction Councils with resources, support, paid company time, travel, and responses to certain issues that they choose.'

I would like to emphasize the contrast between a real organization, NANE/CWA, and a management-controlled organization, the Satisfaction Councils. NANE/CWA is a democratic organization, created when NCR employees voluntarily chose to join together, pay dues, and work collectively.

We are proud of the work we do and the products and services NCR provides. Yet we want a voice in matters that concern us. However, when our elected steering committee wrote to NCR CEO Jerre Stead expressing our concerns and requesting a meeting, Stead refused. He replied, "NANE/CWA has not been chosen by our NCR Associates as their legal representative."

'THERE IS A WAY...'

NCR's attorney, Mark Kingseed, wrote us:

> As you know, "representation" under labor laws requires a positive majority vote from Associates in a secret ballot election. NANE and the CWA have not been so chosen, and therefore, it would not be appropriate for Jerre to meet with, or recognize, the Committee.

Yet Kingseed did suggest a way for us to communicate with management, who they call "coaches." He stated, "the Satisfaction Councils are an excellent way to encourage communication between coaches and associates. We urge the CWA and NANE to reassess its opposition to the Satisfaction Councils."

They refuse to meet with elected NANE leaders, but provide the Satisfaction Councils with resources, support, paid company time, travel, and responses to certain issues that they choose.

In conclusion, what are the implications of this story for possible labor law reform?

First, I feel strongly the true employee organizations like NANE should be recognized under the law. We should have the right to meet and confer with management in order to represent our members. We should have the right to payroll deduction for dues. We should be able to represent our members in existing grievance and open door policies. Finally, we should have the right to meet with union representatives in non-work areas, on non-work time.

Secondly, I urge you to leave 8a2 intact. As much as NCR tries to dress up the Satisfaction Councils as something new, they are not different from the company unions of the 1920s the NLRA was passed to abolish.

Democratic employee organizations are an important part of our democracy in America. Company unions are not! □

FORMER NLRB CHAIRMAN MILLER
CALLS *ELECTROMATION* PROBLEM 'MYTH'

Last year's National Labor Relations Board decision in *Electromation* has not hampered companies from operating employee involvement programs, and any changes in federal labor law intended to enhance the opportunity for establishing such programs should be considered carefully, former NLRB Chairman Edward B. Miller recently told the Commission of the Future of Worker-Management Relations.

In written testimony submitted for the commission's regional meeting in East Lansing, Mich., earlier this month, Miller argued that "[i]t is indeed possible to have effective [employee involvement] programs of this kind in both union and non-union companies without the necessity of any change in the current law." He asserted that the "so-called *Electromation* problem" is simply a "myth."

In *Electromation,* the board ruled last December that employee involvement committees established by the Illinois electronics firm were illegal labor organizations dominated by management (244 DLR AA-1, E-1, 12/18/92). Some observers have argued that the ruling has had a chilling effect on involvement programs at a time when more employee participation is need to enhance productivity.

Miller, who is now senior labor counsel for Pope, Ballard, Shepard & Fowle Ltd., Chicago, said that among companies with employee involvement programs represented by his firm, none has faced unfair labor practice charges since the ruling was issued. "It is indeed possible to have effective programs of this kind in both union and non-union companies without the necessity of any change in current law," he said.

Miller cautioned against any repeal of Section 8(a)(2) of the National Labor Relations Act in an effort to better accommodate employee involvement programs. "While I represent management, I do not kid myself," Miller said. "If Section 8(a)(2) were to be repealed, I have no doubt that in not too many months or years sham company unions would again recur." Any modification in the law needs to include provisions prohibiting representation plans or involvement programs intended to inhibit unionization or enable companies to substitute sham unions for real unions, he said.

Legislation (HR 1529, S 669) was introduced in March to amend Section 8(a)(2) to allow for the establishment of employee participation programs dealing with productivity and efficiency (60 DLR A-14, 3/31/93). The House version, offered by Rep. Steven Gunderson (R-Wis), currently has 24 co-sponsors. Observers generally expect the legislation will not move unless it is incorporated into a broader package of reforms.

Other 'Myths' Debunked

In his written comments to the commission, Miller took exception to claims often put forward by organized labor and other critics of the present system that representation elections take too long. Miller charged that it is a "myth" that the election process is dragged out to the detriment of unions. "The fact is most employers do not even ask for a hearing when an election petition is filed," he said. "As a result, in fiscal year 1992, 84.4 percent of the elections were conducted by agreement and were fully completed within 48 days after the filing of the petition," he said.

Miller said it is also a myth that when there is a hearing, proceedings are dragged out endlessly. "The time lapse from filing of petition to the close of hearing is now in the low 20 day area, and the median decision time has continued to improve to 43 days in fiscal year 1992," he said. In the cases where a hearing was required, the median time in 1992 from the filing of the petition in election was only 76 days.

Miller said he rejects the argument that unions lose elections because of employer misconduct. He noted that in 1992 objections were filed in only 6.2 percent of elections conducted and were found to have merit in only 2.1 percent of the elections.

Copyright © 1993 by THE BUREAU OF NATIONAL AFFAIRS, INC..

Yet another myth, Miller argued, is that NLRB deliberately slows down the processing of unfair labor practice cases or that employers hopelessly bog down the process. "The fact is that the NLRB conducts investigations when a charge is filed much more promptly than any other administrative agency I know of," he said. "The time lapse from a filing of an unfair labor practice charge and the issuance or non-issuance of a complaint has for years run from 45 to 47 days," he said.

- 0 -

AFL-CIO Headquarters: 815 Sixteenth St., N.W., Washington, D.C. 20006
Telephone: (202) 637-5010

Vol. 38, No. 22 MONDAY, OCTOBER 18, 1993

Dunlop field hearings spotlight employer law violations

The federal Commission on Worker-Management Relations made its second road stop Oct. 13 in East Lansing, Mich., and heard something it was told should not happen in America.

A worker too afraid of employer reprisals to give his name or the name of his company told the panel of the shady netherworld in which workers are denied their right to form a union.

He said what's going on at his worksite now is the last refuge of a ruthless management, surface bargaining — companies coming to the bargaining table on a first contract, but just sitting there and saying "no" to everything the workers propose. The witness gave only his initials and refused to name the company so as not to jeopardize his job.

It took eight months to get an election, at which the low-wage workers voted 3-1 for the union, "to get better wages, yes, but also to have some dignity, some voice on the job." For example, workers' hands got raw handling one step in the food processing work, but the employer simply denied the work was causing it.

Then it took 10 more months to get the union certified as the bargaining representative, the kind of delay workers across the country encounter regularly under current procedures and caseloads of the National Labor Relations Board.

Along the way, the workers filed unfair labor practice charges to move the process. One set of charges was upheld completely by an NLRB administrative law judge, but that only moved the employer into its current mode of surface bargaining.

Another witness, Joe Crump, secretary-treasurer of Food and Commercial Workers Local 951, said the process ran two-and-a-half years at Family Foods, a small retail chain in Michigan. Management uses those years to "dissipate the union majority, either ideologically or by the effect of attrition," Crump said.

He described the current National Labor Relations Act as "at best an obstacle to organizing, and at worst a management tool" — so polished are the employers and their legal advisers at thwarting the will of employees.

Other witnesses brought similar stories to the commission, which spent its morning in East Lansing studying labor-management success stories, including UAW relations with Miller Brewing and the Machinists with Johnson Controls. The three commissioners presiding were MIT Prof. Tom Kochan, retired UAW President Doug Fraser and Wisconsin Prof. Paula Voos.

The commission, which has 10 members in all, is chaired by Harvard Prof. John Dunlop and was scheduled to resume its monthly meetings Oct. 20 in Washington, D.C., with consideration of the Railway Labor Act. AFL-CIO President Lane Kirkland is scheduled to testify Nov. 8.

Field hearings continue Dec. 9 in San Jose, Calif., then in early 1994 in Atlanta and in Boston, in conjunction with the annual meeting of the Industrial Relations Research Association.

The East Lansing hearing also heard from Leonard Page, UAW associate general counsel, and had an "open mike" session at which Andrew Rivers, an NCR employee who is working with the Communications Workers, described how the worker group hit a stone wall while NCR nurtured a phony "employee association" with participants endorsed by management.

Tom Woodruff of Columbus, Ohio, president of the District 1199 of the Service Employees, recited a list of specific management atrocities in West Virginia, Kentucky and Ohio that showed how pervasive the practices are.

"In most campaigns, workers have been fired. Employers and consultants joke that it is a small price to pay to — perhaps six months or a year later — return a fired worker to work in order to make sure that the union loses the election," he said.

But in the time between illegal discharge and reinstatement orders from the NLRB, Woodruff noted, the employer has numerous other weapons including delay on unit determination and captive audience meetings.

Most employees earn little more than the minimum wage at the Toledo, Ohio, firm of Hiratoni, Rita Ernst of the Clothing and Textile Workers said in testimony along with Ed Czerniak and Jeff Podbielnink. Hiratoni fired the first five workers who mentioned "union" when they sought to improve their $5 an hour jobs and to clean the toxic fumes out of their worksite.

Minneapolis Star & Tribune
October 15, 1993

Clinton speech leaves labor hanging

By Alexander Cockburn

America's major trade union confederation — the AFL-CIO — met last week in San Francisco in a convention somewhat overshadowed by Boris Yeltsin's final disposal of the gridlock democracy problem. Delegates applauded President Clinton's expressions of solidarity with Czar Boris and then waited hopefully for him to address the one issue on which the nation's labor leaders expect unstinted support from the White House.

The issue in question concerns permanent replacement of workers on strike. If a dispute concerns pay (and not working conditions) the employer can hire permanent replacements.

During his 1992 campaign, Clinton pledged that if Congress passed a bill outlawing permanent replacements, he would sign it.

So he duly came to the podium at the AFL-CIO convention in San Francisco and forgot to mention permanent replacement. The next day Labor Secretary Robert Reich told the delegates rather defensively that after the speech Clinton had asked him, "I covered striker replacement, didn't I?" to which Reich had answered, "No, Mr. President, you didn't," leaving the president to mumble, "I meant to."

Clinton's omission is a useful guide to the his basic instincts. Indeed, when one looks closely at the labor policies of the Clinton administration, it's clear that the defining insight was that offered by Reich, who said recently that "the jury is still out on whether the traditional union is necessary for the new workplace."

The jury actually deliberating this important matter is a panel assembled by Reich called the Commission on the Future of Worker Management Relations, headed by a former labor secretary, John Dunlop. The "mission statement" of this commission set its agenda thus: What new institutions are required to enhance productivity and employee participation? What changes are required in the legal framework? What can be done to settle disputes without recourse to courts and government regulatory bodies?

The answers come in terms of the question. Increased productivity is a matter of making goods more quickly with fewer workers. A few weeks ago the Wall Street Journal hailed "a welcome development of transcendent importance" to wit, that whereas hourly output of U.S. workers rose 4.6 percent in 1992 (better than that of all major competitors), labor costs in the U.S. per unit of output fell 1.5 percent in that same year. In 1985 hourly pay in the U.S. was higher than those in other members of the Group of Seven. Today hourly pay in the U.S. is lower than in any other member of the group except for Britain.

Naturally the specter of labor unions embarking on a wave of militant action to recover this lost ground is not appetizing to the Clinton administration, which couches its geostrategic vision entirely in terms of "competing and winning in the global marketplace." So the practical agenda is of public/private partnership, with the Wagner Act — the New Deal laws enshrining labor's right to organize — amended to accommodate labor-management cooperative programs, which are more simply to be described as company unions, entities banned under the Wagner Act.

This bid is resplendent with the bric-a-brac of Clintonspeak, with pieties about the cooperative committees "empowering" employees to participate in planning and decisionmaking. In fact, the establishment of these pseudounions at the company level binds workers to the task of promoting the profitability of their company relative to its competitors, thus setting worker against worker in the race for higher productivity.

This is the antithesis of union organizing, in which workers have a common interest posed against the interest of their employers. American workers will be mustered to the task of what Commerce Secretary Ron Brown has called "a new model of worker-management relations that allows American business to flourish."

Big Labor, including the Teamsters, has hailed the idea of cooperative committees even though the Dunlop Commission's purview does not include such central issues as lowered pay rates, poor working conditions and unsafe working environments.

This is one of the great curses of the American labor movement. Its leadership is largely ossified, protected by undemocratic barricades intolerant of any dissent or new idea. Meanwhile locals have energetic young organizers and militant workers who are capable of fighting imaginative battles.

The vision is there. But the old labor chieftains prefer to go to Clinton, cap in hand, and are duly rewarded with a deflationary economic program favoring Wall Street, a health plan that may cost workers up to $4,000 more per year and now a labor relations plan that is corporate fascism with a win-win face.

Alexander Cockburn is a columnist for the Nation.

Activists Organize 'Alternative Reich Commissions'

Is There a Future for Unions in the Clinton Administration's Plans?

by Kim Moody

"The jury is still out on whether the traditional union is necessary for the new workplace," says Secretary of Labor Robert Reich. The jury Reich refers to appears to be the Clinton Administration's Commission on the Future of Worker-Management Relations, jointly convened by Reich and Secretary of Commerce Ron Brown.

The Commission is part of the Administration's competitiveness agenda. It is charged with clearing the legal paths "for an entirely new way for American firms to compete and win in global marketplaces," as Secretary Brown put it.

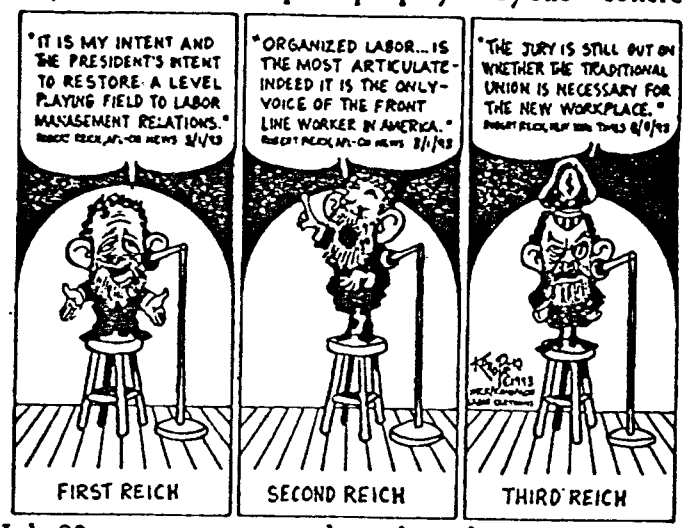
The Commission's first public hearing in Chicago on July 26 indicated that this jury may not consider all the evidence when it puts the traditional adversarial relationship between labor and management on trial.

The Chicago hearing was a hit parade of labor-management cooperation programs at such top 40 corporate innovators as U.S. West, Inland Steel, Magma Copper, Ameritech, and Boeing. Some 500 national and local labor, community, and political figures were invited to the hearing, but the spotlight was on those with positive stories about cooperative labor relations.

NOT PERSUADED

Lynn Williams, president of the United Steelworkers, weighed in for labor, not to question cooperation, but to plead for a union role in it.

Pointing out that these programs seem to work best in a union setting, Williams argued, "We have to persuade all the principal players by one means or another that the new workplace is not going to achieve anything like what we need in America without unions."


"IT IS MY INTENT AND THE PRESIDENT'S INTENT TO RESTORE A LEVEL PLAYING FIELD TO LABOR MANAGEMENT RELATIONS."
"ORGANIZED LABOR... IS THE MOST ARTICULATE- INDEED IT IS THE ONLY- VOICE OF THE FRONT LINE WORKER IN AMERICA."
"THE JURY IS STILL OUT ON WHETHER THE TRADITIONAL UNION IS NECESSARY FOR THE NEW WORKPLACE."
FIRST REICH
SECOND REICH
THIRD REICH

Like Reich, Brown apparently was not persuaded. A week later he said, "Unions are okay where they are. And where they are not, it is not clear yet what sort of organization should represent workers."

This latter is a reference to company-sponsored workplace organizations that have come under closer scrutiny since the NLRB found them illegal in its 1992 *Electromation* decision. The National Labor Relations Act (NLRA) prohibits company-dominated labor organizations.

The *Electromation* decision was one factor that led to the creation of the Reich Commission to examine whether current labor law needs revision to clear the way for such worker-management cooperation organizations.

The Chicago conference avoided concrete discussion of this matter, but the Commission is expected to turn soon to consideration of a bill to amend the NLRA now pending in Congress.

TEMA

In March, Senator Nancy Kassebaum and Representative Steve Gunderson, both Republicans, introduced the Teamwork for Employees and Management Act (TEMA) to amend the NLRA. TEMA would allow employers to set up employee organizations to deal with "matters of mutual interest (including issues of quality, productivity and efficiency)" so long as they don't negotiate or modify a labor contract.

TEMA does not directly address existing union-management cooperation programs to which a union has agreed, like those at Inland Steel, AT&T, and U.S. West. Rather, it allows companies to set up free-standing committees, whether or not there is a union and, presumably, whether or not the union agrees.

Congress has asked the Reich Commission to consider TEMA and make recommendations on it. It appears that the basis of a bipartisan effort to amend the NLRA is being laid.

Detroit labor lawyer Ellis Boal argues that TEMA creates a nightmare of ambiguity over the whole meaning of the National Labor Relations Act. The NLRA, Boal argues, recognizes the "opposing interests of capital and labor."

TEMA's Republican sponsors, like the Democrats on the Commission that is to consider it, wish it weren't so. But it remains to be seen how they will handle the difficulties involved in changing the law's intent.

As it stands now, TEMA is the sole proposal before the Commission.

ALTERNATIVE COMMISSIONS

Whatever they may think about cooperation or jointness, most working people know that the American workplace has gotten worse, not better in the last 10 years. Many would

(continued on page 13)

Reich Commission —cont'd.

(continued from page 16)

like to have a voice in how work is organized, but find management unwilling to share real authority.

Members of AIW Local 837 at A.E. Staley in Decatur, Illinois participated in a union-management program for years, only to have the company attempt to impose a concessionary contract on them in 1992. Now they are locked out.

Dave Watts, president of Local 837, probably spoke for many workers when he told a recent meeting in Detroit about their joint program. "It's like a poker game," Watts said. "If everyone plays honest you've got a chance. But management never plays honest; they always cheat."

Activists worried about the rosy view of joint programs the Reich Commission is promoting have organized several "Alternative Commissions on the Future of Worker-Management Relations."

On August 21, union activists convened Alternative Commissions in Youngstown, Ohio and Minneapolis-St. Paul, Minnesota. The testimony at these hearings revealed appalling working conditions and one-sided "jointness" programs.

READY FOR A FIGHT?

At the Youngstown hearing, workers from the nearby Lordstown GM plant told how after years of jointness the company announced plans to cut the workforce by 38%. Job loss was a major theme and participants voted to reconvene the Alternative Commission in early 1994 to discuss how to create jobs in the area.

The Minneapolis-St. Paul Alternative Commission dedicated its first hearing to the problems faced by the homeless workers employed by temporary agencies. In all, such agencies now employ 1½ million workers.

The Twin Cities group also plans to hold more hearings.

The Massachusetts chapter of Jobs with Justice, a union-backed activist coalition, is planning a similar conference to debate labor-management programs. And there is likely to be more opposition to the official Commission's forced march to a new era of labor-management cooperation.

Training magazine, a mainstream industry publication, concluded in a May article on cooperation efforts, "If Reich is willing to change existing law to encourage cooperation between management and workers, he better be prepared for a fight." □

RESOURCES

A program to study the Spanish language while learning about Mexican labor and the effects of the North American Free Trade Agreement is offered by Centro Tlahuica de Lengua e Intercambio Cultural A.C. (CETLALIC). Two three-week programs will be held November 6-27, and February 5-26 in Cuernavaca. Cost per participant is $900 U.S., which includes tuition, shared room and full board with a Mexican family, educational materials, and transportation in Mexico.

Half-day classes are to be combined with visits to plants and cooperatives, and meetings with unions and organizations in the state of Morelos and in Mexico City. For more information, fax or telephone CETLALIC at 011-52-73-13-35-79.

■ ■ ■

When the River Ran Red is an hour-long documentary film on the Homestead, Pa. strike at the Carnegie steel mill in 1892. Strikers won some bloody battles with Pinkertons, but eventually were defeated and driven from the mill. Filmmakers Steffi Domike and Molly Mason use still images and first-hand accounts to dramatize a turning point in U.S. labor history.

Video cassettes of *When the River Ran Red* are available for $39.95 each, plus $3.50 for shipping and handling. Pennsylvania residents add $2.40 sales tax. Write: When the River Ran Red, 5633 Woodmont, Pittsburgh, PA 15217. Or phone 412/521-0951.

■ ■ ■

Want your union brothers and sisters to learn more about the current United Mine Workers strike? Don't wait for the mainstream press to tell them. Get a copy of *Crossroads: The Mine Workers Fight for Jobs with a Future,"* a 12-minute video produced by the union. Write or call: United Mine Workers of America, Office of Special Projects, 900 15th Street NW, Washington, DC 20005. Phone 202/842-7214. The suggested donation is $12.00.

■ ■ ■

The National Association of Working Women, 9 to 5 answers a hotline on workplace issues for women. 9 to 5 encourages women workers to organize, but if union representation is out of reach, we can at least know and enforce our rights. This year, hotline operators are being trained to answer questions on the new family and medical leave act, which went into effect in August for non-union workers. The hotline number is 800/522-0925.

■ ■ ■

They talk, they sing, they tell the truth: the San Francisco Mime Troupe announces the Fall 1993 tour of *Offshore*, a musical comedy on free trade and the global economy. The effects of U.S./Japanese deals on tariffs and trade are shown through the lives of working people affected on both sides of the Pacific.

Offshore is scheduled for 16 different cities between September 29 and November 20. To find out whether there's a showing near you, or to talk about bringing a performance to your town, contact Tory Griffith at 415/285-1717, or fax 415/285-1290.

■ ■ ■

The Southeast Michigan Coalition on Occupational Safety and Health offers a six-page fact sheet titled *AIDS in the Workplace: Facts vs Fear.* It includes information on how AIDS can and cannot be transmitted, along with precautions for people who may be exposed to body fluids on the job. Because some state laws and agencies are listed as resources, the fact sheet is most useful for workers in Michigan. Single copies are free; for bundles there is a shipping charge. Contact SEMCOSH, P.O. Box 44834, Detroit, MI 48244. Phone 313/961-3345.

■ ■ ■

The Ed Mann Labor Center and the Youngstown Workers' Solidarity Club are holding a labor school October 5-10 in Youngstown, Ohio. Ten "how to" sessions, from "How to Run a Work-to-Rule Campaign" to "International Solidarity" will be run afternoons and evenings. Presenters include political, community, and labor activists. Registration is $30; unemployed or on strike, free. The Labor Center can provide some lodging for registrants from out of town. For more information contact The Ed Mann Labor Center, P.O. Box 2125, Youngstown, OH 44504. Or call John Borsos at 216/743-6969.

■ ■ ■

The Learning Alliance in New York says, "At work and at home you are under constant surveillance" by companies which want to monitor your buying or working habits (they probably know you just read this sentence). *Spies On Line, Worker and Consumer Privacy Workshop* will feature Lou Maltbe of the American Civil Liberties Union and Elisa Riorden of the Communications Workers of America. The workshop is Thursday, November 18, 6:30-9 pm. For more information, contact Learning Alliance at 494 Broadway, New York, NY 10012. Phone 212/226-7171.

■ ■ ■

With good-paying jobs harder to find, more young people may consider joining the military for training and a regular paycheck. Citizen Soldier offers *Signing Up: It's Your Choice*, a 13-minute video. The video takes an inside look at a military recruiting station, and at the stations where training and job assignments are made, with an emphasis on the rights of recruits. To order, send $10 to Citizen Soldier, 175 Fifth Avenue, #808, New York, NY 10010. Phone 212/777-3470.

■ ■ ■

Our kind of call-in radio show: metro-DC listeners can tune in to *Labor Works* every Wednesday from 7:00 to 8:00 pm on WPFW, 89.3 FM. Host Josh Williams, president of the Metropolitan Washington Council AFL-CIO, promises to give working people— rather than "pundits and so-called experts"—a voice on the issues that concern them.

■ ■ ■

Workers Lives, Workers Stories is a one-day conference, Saturday December 11, on workers' culture. It's sponsored by Bread and Roses Cultural Project in New York. Workshop speakers include Studs Terkel, author; John Sayles, film maker; and Pete Seeger, folk singer; along with many others. The conference will be at New York University's Loeb Student Center on Washington Square South in New York. Admission is free but advance registration by November 18 is required. Contact Bread and Roses Cultural Project, 330 West 42nd Street, 19th Floor, New York, NY 10036. Phone 212/947-1944.

Will Labor Board Bring Back Company Unions?

by Ellis Boal

"Labor law reform" has been a rallying cry of the labor movement since the 1947 Taft-Hartley overhaul of the Wagner Act.

The fight has gone poorly, and now the employers are gearing up for their own try. They want to re-legitimize company unionism. They are appealing to the "team concept" craze to do it.

Company unions were the scourge of the labor movement in the 1920s and early 1930s. Then in 1935 the Wagner Act was passed with explicit language outlawing company unions. Several sections underline the battle between labor and capital and the strict boundaries between them. Company and union interests are "inherently adverse," one court of appeals said in 1988.

The principle was never questioned until recently. Every Supreme Court opinion on the independence of unions has been unanimous—and pro-labor. For a change, traditional, settled law favors the good guys.

This makes many team concept programs illegal—*management* sets up *worker* groups that discuss working conditions. But management has found that team concept allows them to increase flexibility and squeeze more work out of fewer workers. They're not happy about the Wagner Act prohibitions.

ELECTROMATION

The employers are stalking the issue—for now—in an unusual way.

Instead of trying to get their proposal through Congress, they are asking the National Labor Relations Board to do the job by reversing 55-year-old precedent. A loss on this fundamental issue would stack the legal system even more seriously in favor of management.

Currently pending is a case, *Electromation Inc.*, which involves a non-union Indiana company that set up employee committees to deal with management about working conditions. The committees were in no way independent; management decided the rules for committee membership, sat on each committee, and funded them.

The employers are appealing to the 'team concept' craze to bring back company unionism.

The Teamsters union, which later tried to organize the plant, asked the Labor Board to rule the committees illegal, as company-dominated labor organizations. Administrative Law Judge George McInerny supported the union. However benign Electromation's motive, he said,

> experience had shown...[that] committees...tend to induce the adherence of employees in the mistaken belief that this kind of organization was truly representative and afforded an agency for collective bargaining... The harm comes from the inherent injury to the rights of employees to bargain collectively through representatives of their own choosing.

McInerny ordered the committees dissolved.

Electromation appealed. It accepted all the judge's factual findings, but challenged the law itself.

30,000 BUSINESSES

Until now, NLRB decisions on such team set-ups have gone against the employers, and they have usually been perfunctory; the written law is so clear that little usually needs to be said.

But this time the Board took the bait. It highlighted the case by inviting interested parties to submit "friend-of-the-court" briefs and make oral arguments. Its definition of the issues tipped its hand. It stated that an employee committee "loses its protection" when it "becomes a labor organization."

Nine organizations—mostly business groups—submitted friend-of-the-court briefs. Because the law goes against them, they pointed to stagnating U.S. productivity, aggressive foreign competition, Japanese success with team concept, and Electromation's lack of an anti-union motive. They smugly claimed that participation programs currently exist in 30,000 U.S. businesses today, and warned the Labor Board to stay out of the way.

The most astonishing argument was filed by 10 right-wing members of Congress. Discarding pretenses, they simply called for "the overruling of Board precedents," and boldly endorsed "board shifts with the fortunes of the political parties."

A NATIONAL SCANDAL

On the union side were the Teamsters Union and the Board's General Counsel. Submitting supporting briefs were the American Postal Workers Union, SMU law professor Charles J. Morris, and Labor Notes. The AFL-CIO argued orally but did not put in a brief.

The Labor Notes brief pointed out the importance of employees' independence and a string of 18 unanimous Supreme Court opinions. It debunked the employers' claim that the issue is productivity, pointing out that the Electromation committees didn't address productivity. They discussed working conditions. Attendance bonuses were the prime example.

The Electromation committees are typical in this regard. Scholarly research is unanimous in finding that "problem-solving" work groups tend to get into issues of workplace environment. The boundary between work and working conditions is "artificial" and easy to cross, as even the pro-business Employment Policy Foundation admitted in its 1991 white paper.

The employers are right that participation programs abound across the country. The existence of so many illegal participation programs is a national scandal. Union-avoidance consultants always recommend team concept.

The programs go unchallenged because the NLRB can't legally investigate unless someone files a formal charge. Non-union workers don't know their rights, and don't file charges.

That issue was highlighted at Electromation because the company had no knowledge of the Teamsters Union—which came in to organize and then brought the charges—when it set up the committees. The union had not gone public yet. The company actually was not motivated by an anti-union attitude.

But a company's motive is not the key question.

For one thing, the Supreme Court ruled in 1961 that good or bad motive is irrelevant. And requiring unions to supply proof about the company's motive for setting up teams can be a difficult matter.

More basically, even if the company acts in good faith, teams foster pro-company thinking. An NLRB

Plan now for next year's

Labor Notes Conference

★ ★ ★

April 23-25, 1993
Detroit

judge noted in 1977 that a team program "could be viewed [by workers] as an alternative to a labor organization."

This exact scenario was played out at Electromation. The union lost the election and protested because of the committees. In dissolving the committees, Judge McInerny ordered a new election. This time the Teamsters won, and the company finally signed a contract.

THE OUTLOOK

What will the Board do? Undoubtedly, Board members want to change the law. The question is how. Fifty-five years of precedent is hard to overturn.

A grousing NLRB decision against Electromation, but complaining about the strictures of the law, may be just what they need. A pro-union decision can be paraded as proof of what's wrong with the Wagner Act. The media will turn up the volume.

If the employers lose, one member of Congress plans to introduce legislation amending the Wagner Act. A similar bill, the American Competitiveness Act (HR 2523), is already in the hopper.

The greatest danger would be legislation decreeing that team concept programs have nothing to do with collective bargaining. Then there would be nothing to prevent employers from installing these programs in unionized workplaces, even where the union objects.

But team concept programs have everything to do with collective bargaining. At present, unions can have substantial leverage over team concept programs because employers must win the union's agreement before going ahead with them.

A revealing feature of what business is after is its opposition to the mandatory employee safety committees in the amendments proposed to the Occupational Safety and Health Act. In safety, an area where employee involvement is surely essential, business is against it.

Labor's response to this impending crisis has been weak. Perhaps the AFL-CIO will try to cut a deal. It would probably go along with some kind of pro-cooperation legislation. But employers are belligerent and don't seem in a mood to compromise.

This is serious stuff. The stakes are the identity and the soul of labor. Labor—meaning the membership, the community, and the public—has to respond aggressively. □

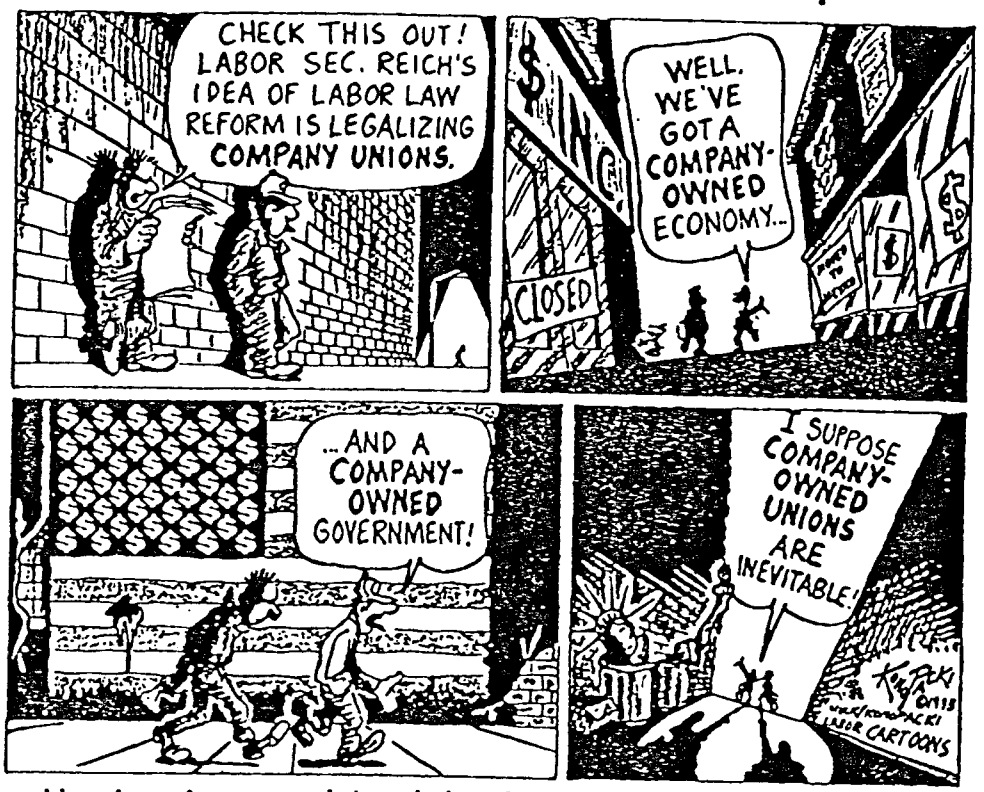
[Ellis Boal wrote Labor Notes' brief in the *Electromation* case.]

VIEWPOINT

Direct Action, Not Clinton Commission, Is Best Hope For Labor Law Reform

by Suzanne Gordon

In a significant shift in labor tactics, frustrated union members around the country descended on National Labor Relations Board offices on May 27 for an unprecedented one-day protest. More than 7,000 workers picketed outside NLRB offices in 25 cities, leading to 400 arrests and much local publicity about workers' rights violations.


CHECK THIS OUT! LABOR SEC. REICH'S IDEA OF LABOR LAW REFORM IS LEGALIZING COMPANY UNIONS.
WELL, WE'VE GOT A COMPANY-OWNED ECONOMY...
CLOSED
...AND A COMPANY-OWNED GOVERNMENT!
I SUPPOSE COMPANY-OWNED UNIONS ARE INEVITABLE!
LABOR CARTOONS

The demonstrators denounced the Board's failure to defend union activists and prosecute management unfair labor practices. They called for changes in federal labor law and NLRB case-handling procedures that would make union organizing easier.

Coordinated by Jobs With Justice, this display of militancy reflects the widespread concern that the disastrous decline in unionization—long blamed on the "Reagan-Bush Board"—will continue under President Clinton despite his promised appointment of more sympathetic NLRB officials.

Further grassroots activity will certainly be needed to keep the pressure on NLRB regional offices that may be little-affected by personnel changes in Washington. Such protests also help create a sense of urgency about the crisis in union organizing that is missing among both labor and political leaders.

(As if to underscore labor leaders' lack of urgency, the *AFL-CIO News* refused to cover any of the NLRB protests. Federation official reportedly regard Jobs With Justice as "dual unionism," which they regard as a more serious sin than inaction.)

American unions lost another 200,000 members between 1991 and 1992. As a percentage of all employed hourly and salaried workers, organized labor reached a new low of 15.8% last year. The private sector unionization rate has fallen to 11.5%. The annual level of union job losses remains so high, according to a study by the Labor Research Association, that even if "labor won every NLRB election at the current pace of organizing and brought every worker involved under contract, it would add only 180,000 new members a year—and union density would still fall."

STUDY

The Clinton Administration's response to this problem has been to appoint a commission to study it for a year.

The ten-member Commission on the Future of Worker/Management Relations, named by Labor Secretary Robert Reich in March, will "investigate the current state of worker-management relations and labor law and make recommendations concerning changes that may be needed to improve productivity through increased worker-management cooperation and employee participation in the workplace."

The Commission's report is not expected until next May, which means that any Administration-backed legislative proposals based on it will not be considered by Congress until after the mid-term elections in November 1994. If history—and Clinton's performance in office so far—are any guide, the President will have even less support in Congress after that election than he does now.

Top AFL-CIO officials and national union leaders nevertheless greeted this panel with much effusive praise for its mission and membership.

Not one asked why such a study of labor law was even necessary in light of the extensive documentation of the NLRB's failings in periodic Congressional hearings held before and since the last major push for labor law reform in 1977-78.

Not only is the Board's performance and pro-management tilt even worse than it was fifteen years ago, but the necessary legal remedies have been well known for almost that long as well.

As the NLRB protesters pointed out, unions will not be able to organize effectively until they're able to get recognition based on card check, rather than Board-supervised elections. Workers fired for organizing activity must be reinstated quickly with injunctive relief, and they must receive more than back pay, minus "interim earnings."

As in Ontario, there must be a mechanism for imposing first contract terms through arbitration if the parties fail to reach agreement themselves.

Full labor law protection must also be extended to the millions of "contingent workers"—part-timers, temps, contract laborers, and others—who now constitute a third of the workforce.

COOPERATION SCHEMES

While the final report of the Worker-Management Relations Commission may address some of

(continued on page 13)

Labor Law Reform—cont'd

(continued from page 12)

these issues, it is far more likely to promote employee participation and workplace cooperations schemes—with or without a union.

In a revealing interview with Jim Lehrer on the Public Broadcasting System, Labor Secretary Reich made it very clear that this is where the Administration is headed. Lehrer asked Reich whether it was Clinton's "position that more of the workforce should be unionized." "No," said Reich. "The position is that we don't want to load the deck in either direction..."

You mean, asked Lehrer, "if there's an individual worker or group out there who feel they've got a problem at the workplace, your recommendation to them, as Secretary of Labor, is not automatically go organize or join a union?"

STREET HEAT

Replied Reich: "My first recommendation to management and to workers is come up with ways of working together constructively...I don't care whether you're unionized or non-unionized, labor is going to have a voice.

"You have to have some sort of system for giving it a voice. I don't care whether it's a traditional organized system. Some of the most innovative companies in America have come up with different ways of providing workers with a voice."

In 1935, when the Wagner Act was passed and the NLRB created, these "different ways of providing workers with a voice" were properly branded "company unions"—and outlawed by the Act.

In the 1990s, however, it's clear that labor organizers won't be able to say to workers about Clinton what they did about FDR, "The President wants you to join a *real* union."

That's all the more reason why applying "street heat" to the soon-to-be "Clinton NLRB" is a far better strategy than just waiting for Commission recommendations that may hurt as much as they help. □

[Suzanne Gordon was an organizer of the National Writers Union. She writes frequently about workplace issues.]

DuPont Must Disband Workplace Committees

NLRB Rules Companies Can't Bypass Unions

The Washington Post

Tuesday, June 8, 1993

By Frank Swoboda
Washington Post Staff Writer

The National Labor Relations Board has ordered the DuPont Co. to disband seven labor-management committees because the company bypassed the union when it set up the panels to deal with workplace issues.

It was the board's second ruling discouraging moves by companies to use worker-management panels to solve problems on the job.

Last December, in a ruling governing the use of such teams among nonunion employers, the board said that Electromation Inc. of Elkhart, Ind., had violated federal labor law by creating workplace committees that amounted to little more than "sham" unions to thwart an organizing effort by the Teamsters.

The two rulings set the stage for a congressional fight next year over labor law reform. The Clinton administration has appointed a 10-member commission to recommend changes to "improve productivity through increased worker-management cooperation and employee participation in the workplace."

The confrontation is being created by a predominantly Republican board that is siding with organized labor against a Democratic administration that wants employers to have more freedom in arranging cooperative efforts in the workplace.

In the Dupont case, the board said the six safety committees and one fitness committee dealing with recreational facilities were illegal because they were dominated by management and dealt with issues that should have been the subject of bargaining with the Chemical Workers Association Inc., the independent union that represented the DuPont employees.

The case was being closely watched by management groups for signs of how much power they must give their unions in pursuing cooperative efforts with their employees.

DuPont, in a statement yesterday, said it was disappointed with the NLRB ruling. It said the committees were never intended to be labor organizations that would undermine the bargaining authority of its union.

The NLRB tried to provide employers with some guidance for future cooperative efforts. It said that

A spokesman for the AFL-CIO called the NLRB decision "a breakthrough for workers' rights."

the presence of a management member on a cooperative committee in itself does not make the committee illegal.

For example, it said, the committee would be legal if it did not deal with issues that were the subject of collective bargaining, its positions were determined by a majority of its members and they were not merely recommendations to management.

Also acceptable, the board said, would be a committee created solely for the purpose of "imparting information" or "planning educational programs."

DuPont said it and "others in industry" would assess whether the guidelines gave them the leeway to develop the kinds of cooperative pro-

See COMMITTEES, D2, Col. 4

DuPont Ordered To Disband Seven Workplace Panels

COMMITTEES, From D1

grams that would allow them to compete in global markets.

A spokesman for the AFL-CIO called the NLRB decision "a breakthrough for worker's rights."

He said the system at DuPont was "a dictatorial system and obviously not real labor-management cooperation."

The Clinton administration appears to favor making it easier for unions to organize new members in return for changes in the National Labor Relations Act that would foster greater worker-management cooperation, particularly among those employers competing in international markets, where work site flexibility has become a crucial factor in corporate survival.

Labor Secretary Robert Reich has said that with the appointment of the labor law review commission—the Commission for the Future of Worker-Management Relations—the Clinton administration was trying "to restore a level playing field to labor-management relations."

Quality Circle Busters

While the Clintonites wander around looking for "the center," other Americans continue to participate in something called an economy. Too bad they keep getting sandbagged by an antique New Deal agency that can't seem to get its mind around the modern economy.

The National Labor Relations Board spends its time patrolling the industrial landscape in search of anything that looks even vaguely like a "company union." Company unions are illegal under the Wagner Act of 1935. In the words of one union official who must think he inhabits a Steinbeck novel, they're a "timeless evil." But most folks have noticed that the economy has moved on since the 1930s, and the preferred term today is "quality circle."

Quality circles are a Japanese innovation and aim to involve workers in management decisions. World class competitors like Motorola, Hewlett-Packard, Ford and AT&T swear by them as a way to hike productivity and keep folks working happily.

In its latest masterstroke, the NLRB has ruled that a handful of "safety and fitness" committees set up at a DuPont plant are "sham unions" under the Wagner Act. Before the reign of terror was cut short, these outlaw committees arranged better ventilation in the plant's welding shop and set up a picnic area. In doing so, they stepped on the toes of the Chemical Workers Association; the union had promised picnic tables too, but never delivered.

The *DuPont* decision was an exclamation mark on last December's *Electromation* ruling. In that case, a small, Indiana-based maker of electrical gadgetry was pilloried for setting up "action committees" to deal with smoking policy, bonuses and the like. It seems these committees annoyed the Teamsters, who were trying to organize the factory's workers.

The Labor Department has a list of companies who've joined the quality revolution: It's an inch thick and single-spaced. In effect, the NLRB rulings set up a legal squeeze in which even nonunion companies can't consult their workers without a by-your-leave from a union boss.

The board royally flubbed a chance in *Electromation* to explain when quality circles wouldn't be illegal. Now it comes back in *DuPont* with the helpful advice that "a suggestion box," or at most "a brainstorming session" as long as it "makes no proposals," would pass legal muster as communication between workers and managers. Obviously this is idiotic, but the unions love it.

Some old-timers have always opposed quality circles because they employ "peer pressure"—horrors!—to motivate workers. More importantly, Big Labor's hold on the private-sector work force has slipped to barely 10%. Now they dream of elbowing their way back with an NLRB-enforced monopoly on conversation between the factory floor and the front office.

For thousands of companies a litigation nightmare awaits. The federal Court of Appeals throws out the NLRB's rulings as a matter of course, but it takes a fortune in legal fees to get that far. Most companies would rather spend their time and money making and selling products.

In theory, Labor Secretary Robert Reich is a fan of workplace cooperation. But that doesn't square too easily with his other activities, which so far have consisted mainly of doling out political rewards to the Clinton campaign's supporters among organized labor. Union households voted 60% for the Democrats, and Big Labor poured millions of soft dollars into getting the ticket elected.

In April, Mr. Reich appointed a commission to mull changes in the labor laws, and naturally its members are sympathetic to the shrinking precincts of organized labor. They may be inclined to do something on quality circles, but they'll also lard their report with proposals for expanding union leverage over the economy. Jimmy Carter couldn't get this agenda through Congress, and neither will Bill Clinton.

We have a suggestion for a President searching for "the center." Nancy Kassebaum and Steve Gunderson, both from the party across the aisle, have bills that would amend the Wagner Act and make it clear that workers and management may talk among themselves about "quality, productivity and efficiency." Mr. Clinton ought to pick up the phone and tell these two Republicans he wants to work with them to get their legislation passed.

Workplace

White House Panel Looks for the Keys to a New Labor Relations Era

By Frank Swoboda
Washington Post Staff Writer

The way Tom Kochan sees it, the state of labor relations in the United States is very similar to the situation on the eve of the New Deal. Then, organized labor's ranks were dwindling, its leaders couldn't cope with the nation's shifting economic base, and management-dominated approaches to employee involvement were being pushed on nonunion workers.

But Kochan, writing for the National Planning Association, argues that just as the economic pressures of the Great Depression proved too powerful for business to keep dictating the approaches to labor relations, the economic pressures of today's global competition will force a similar change in the way labor and management do business.

Just as the Great Depression spurred the enactment of the National Labor Relations Act, guaranteeing the rights of workers to form unions and bargain collectively for contracts, Kochan said, the federal government needs to act once again to help the nation meet the challenge of becoming competitive.

Kochan, a professor at the Massachusetts Institute of Technology, is one of the nation's leading experts on labor-management relations. More important, he is someone the Clinton administration appears to be paying a good deal of attention to these days as it begins studying the need for a complete overhaul of the nation's basic labor laws.

Kochan and other leading academics in the field of labor relations will gather in Washington this week for the first meeting of the 10-member Commission for the Future of Worker/Management Relations. Headed by John Dunlop, a Harvard University economist and former secretary of labor, the group also includes former labor secretaries Ray Marshall and W. J. Usery as well as former commerce secretary Juanita Krepa. Douglas Fraser, retired president of the United Auto Workers union, will represent labor; and Paul Allaire, chairman of Xerox Corp., will represent business.

Other commission members, in addition to Kochan, are academics Richard Freeman of Harvard, Paula Voos of the University of Wisconsin and William Gould of Stanford University.

The Clinton, in its charter to the commission, gave it one year to answer three questions:

- "What (if any) new methods or institutions should be encouraged, or required, to enhance workplace productivity through labor-management cooperation and employee participation?"
- "What (if any) changes should be made in the present legal framework and practices of collective bargaining to enhance cooperative behavior, improve productivity and reduce conflict and delay."
- "What (if anything) should be done to increase the extent to which workplace problems are directly resolved by the parties themselves, rather than through recourse to state and federal courts and government regulatory bodies."

The group's mission is exceptionally broad. Some commission members argue that any true look at the legal mosaic governing the workplace has to include everything from the National Labor Relations Act and the Fair Labor Standards Act, which

governs wages and hours, to federal pension laws and anti-discrimination rules under both the Civil Rights Act and the new Americans with Disabilities Act.

Labor Secretary Robert B. Reich, at the time he and Commerce Secretary Ronald H. Brown announced the commission's formation in March, said the scope of its work basically was up to the commission members.

"The future competitiveness of the United States, and the future living standards of American workers, depend largely on the one national resource uniquely rooted within our borders: our people—their education and skills, and their capability to work together productively," Reich said then.

Both labor and management, he said, must take on more responsibility for seeing that their workplaces are more productive given the increasingly tough test of international competition.

To accomplish this, Reich said, the government has to help restore "a level playing field" to U.S. labor-management relations, a field he claims was tilted toward business during the Reagan and Bush administrations.

The secretary has been telling audiences that the history of labor relations has been written in two chapters: before 1981 and after 1981. The period since 1981, he says, has been marked by growing hostility and distrust between labor and management. He says the time has come to start writing a new chapter of cooperation.

Part of that new chapter appears to be a willingness by the administration to go along with what could be a sweeping overhaul of the rules governing union organizing.

Former labor secretary Ray Marshall, in a speech to the AFL-CIO Industrial Union Department in November, outlined a basic approach to changing the law to make it easier for unions to organize.

"One of the strategies that might work," he said in November, "is to create a blue-ribbon commission to take a look at the issue of labor law reform." He said the commission should be bipartisan, with both union and management representation "and some outsiders as well."

Marshall went on to outline several points he thought necessary to level the playing field for unions. First, he said, unions needed to have greater legal access to the workers they are trying to organize. "The rule should state that if the employer does it, the union can do it," he said.

Unions, under the Marshall plan, could win automatic recognition simply by gathering the signatures of a majority of the workers in a bargaining unit. In the case of elections, the votes would be cast, but not counted, until an employer had a chance to raise any legal objections to the union campaign. This way, Marshall said, employers could not use legal maneuvering to prevent or delay an election.

Marshall also would require arbitration if negotiations for a first contract fail. And he would waive the ban on secondary boycotts by unions in cases where employers sought the help of other employers during a strike.

In exchange for making it easier to sign up new members, the administration is apt to demand that organized labor agree to changes in labor laws to allow cooperative efforts such as self-directed work teams, "total quality management" and other, similar cooperative endeavors that have been put into question by a recent decision of the National Labor Relations Board.

Under current law, such cooperative efforts are illegal unless the employees involved are effectively given the same kinds of powers they would have by belonging to a union.

The administration appears determined to do whatever is necessary to use the commission to ensure the next chapter in the history of federal labor law is a story of cooperation. The political trick will be to convince both labor and management to agree to change.

BEAT THE DEVIL.

Clinton and Labor: Reform Equals Rollback

Since this column, written with my colleague JoAnn Wypijewski, is about what the Clinton Administration and its intellectual light artillery such as Richard Freeman and Joel Rogers are planning for labor, let's start with a death on the shop floor. All the talk today about a new era of partnership, about a "new New Deal for labor," about worker-management cooperation, amounts to one thing and one thing only: working harder for less in worse conditions; or, as the Clintonites like to put it, increasing productivity and competitiveness.

On May 15, 1990, James Beals and Jerry Sumner, mechanics at the Staley corn processing plant in Decatur, Illinois, were ordered by a supervisor to make repairs on a cornstarch processing tank. As Sumner tells the story, "This was a boilermaker's job—heavy metal. None of us had ever done this job before, and we asked why a boilermaker wasn't doing it. The supervisor said, 'This vessel is as safe as can be. Just go in there.' I got in the tank first. It was slimy inside. You had to worm your way in. The opening was only about twelve by eighteen inches. It was round inside, so it was difficult to walk. We hadn't been in there fifteen minutes when all of a sudden a liquid started pouring in through an opening in the vessel. The first stuff that came through was clear and there were no vapors. But then we started choking and realized it was propylene oxide. It took our breath away and we were suffocating. I told Beals I was getting the hell out of there. I just remember going toward the light. The next thing I knew I was outside the opening. I tried going back in for Jim but my eyes were burning too much. I stuck my head in the opening and yelled to him. He must have been gone by then. We tried to go in with a Scott air pack, but the opening was too small. We also found out later that there was almost no oxygen in the air pack. We also tried using emergency escape masks but we tried eight of them and none had any air in the bottles. Finally we tried using an air horn to blow air into the vessel, but you couldn't stay near the opening—the fumes were too strong. My skin felt like it was on fire. I couldn't wait any longer to get to the shower. But I kept saying to myself, 'Jim's dead, Jim's dead.' "

Staley is a union plant, owned by the British conglomerate Tate & Lyle. In the late 1980s the company introduced a cooperative regime that it outlined in a report headed "Design for Progress." Select workers and management representatives would meet to deal with workplace problems, including those involving health and safety, in a "cooperative effort" that would result in the "elimination of we/they perceptions." Above all, the committee would work to "improve the competitive position of the Decatur plant."

And what have been the fruits of this "cooperation"? Disciplinary actions resulting in firings; mandatory "state of the plant" meetings in which managers lecture workers on the needs of the company; a "human resources manager" whose résumé includes a stint at International Paper in Jay, Maine, which in 1987 forced a strike and then permanently replaced every one of the 1,200 workers.

Most significantly, Staley has imposed a contract on the members of Local 837 of the Allied Industrial Workers that Dave Watts, the local president, says is "just one management rights clause from beginning to end." At the heart of it is the brutal manipulation of workers' lives through forced twelve-hour shifts (without overtime) and the introduction of work teams that destroy seniority. Lost income, lost jobs and reduced safety are all part of the equation to improve the "competitiveness" of Staley, whose parent company posts huge profits, remunerating its top executives in the million-dollar range.

This is the American workplace today. The owners dispose, and the workers get to cooperate in their own misery. At Staley, the workers have responded with a strategy of creative challenges to the employers both inside the plant and through pressure on its outside corporate connections.

During the election campaign Clinton promised labor law reform, speaking solicitously of steps to improve the conditions of workers. Yet as it now appears, Clinton's labor policy will turn on a "reform" that institutionalizes cooperation and eviscerates the current legal guarantees for workers to organize independently.

On March 24, Ron Brown and Robert Reich announced a joint Commission for the Future of Worker-Management Relations, "seeking to establish new partnerships between workers and managers through new partnerships between the Commerce and Labor Departments." The commission, which is stacked with academics and former policy hands—the only representative from labor is Doug Fraser, retired head of the U.A.W., best known for his concessions during the Chrysler bailout—is scheduled to have its first meeting in May. Its central mandate is to assist in the undermining of processes of collective bargaining, as well as judicial and regulatory controls, all in the name of "cooperation." Those who have followed Interior Secretary Bruce Babbitt's ecosystemic compromise between California's developers and the gnatcatcher will get the idea. Thus we have the maimed reality of Clinton's campaign pledges: not worker rights, or stringent enforcement of existing law, or removal of obstacles that make winning a strike all but impossible.

Catalyst for this entire process is a decision issued last December by the National Labor Relations Board on worker-management committees at Electromation, a small electrics company based in Elkhart, Indiana. The board shook American business by declaring that labor-management cooperation programs, in that they function at the pleasure of owners and are controlled almost entirely by management, are de facto company unions and thus outlawed under the 1935 Wagner Act.

Since then, corporate strategists and their political cohorts have been scheming about how to get around the decision. Representative Steve Gunderson has introduced a bill to amend the Wagner Act so as to allow cooperative committees, which, he says, "empower employees to participate in the planning and decision-making processes that most directly affect their lives and livelihoods."

ALEXANDER COCKBURN

Come Down, Come Down From Your Ivory Tower

On March 10, two weeks before the joint commission stirred into life, a significant article appeared on the Op-Ed page of *The New York Times* titled "A New New Deal for Labor." One of the two authors was Richard Freeman, a Harvard labor professor and a member of the commission. The other was Joel Rogers, a political scientist now teaching in Madison, also a *Nation* contributor and one of the founders of the New Party. The piece was a bellwether for the way liberal "spokesmen" for the workers' interest are providing academic ballast for the further destruction of the labor movement.

Freeman and Rogers argued that the system set up by "the Wagner and Taft-Hartley Acts," designed to permit workers to organize themselves and bargain collectively, "no longer protects the workers' choice to form unions, and it frustrates the exploration of alternative ways of giving workers a voice."

Given this failure, they said, the Clinton government should push companies to establish employee participation committees that have "enforceable rights to information and consultation with management over labor policies, as do workers' councils in Europe." Wages, the two are quick to add, would remain a management prerogative. The government "should also modify the ban on company unions," since most nonunion workers are "not going to join the A.F.L.-C.I.O. unions in the foreseeable future. If their employers feel that granting greater participatory rights to workers is good for the enterprise, they should be free to do so."

The rest of the article is thick with the win-win verbal bric-a-brac that has become an integral part of Clintonspeak. Along with legislation to allow company unions, the government should also "strengthen workers' rights to form traditional unions." The company unions "would give workers back their voice without putting management into a straitjacket." Freeman and Rogers also suggest making cooperative programs "a condition for employers' tax breaks or relief from regulatory reporting."

After James Beals's death OSHA fined Staley $1.6 million and found 298 other health and safety violations. Imagine if the relief from regulatory reporting along the lines recommended by Freeman and Rogers had been in place at the time of Beals's death. The kind of "cooperation" with workers sought by the Staley management immediately after Beals died took the form of instructions to workers to find emergency masks to strew outside the death cylinder so that it would look as though these had been available to Beals. His co-workers were able to report this ruse to OSHA the next day.

The rose-tinted approach to capital/labor realities advanced by Freeman and Rogers is suggested by their first ludicrous statement that the Wagner and Taft-Hartley acts were designed to help workers bargain collectively. Of course, the 1947 Taft-Hartley Act was one of the first shots in business's postwar offensive against the reforms of the 1930s embodied in the Wagner Act. That same Taft-Hartley Act contained the infamous 14b clause which became the impetus for "right to work" states in the South.

The rhetorical sleight of hand in Freeman and Rogers is the argument that the lack of real workers' choice for unions validates a phony choice. It's like Reaganites arguing that because children couldn't get vegetables in their school lunch, they should be allowed to explore "alternative ways" of getting essential nutrients, such as through tomato ketchup, duly designated as serious food. Ketchup was thus recategorized while the kids were simultaneously promised that every effort would be made to reintroduce real vegetables in the near future.

Substantively, Freeman and Rogers do not recognize that in establishing pseudo-unions at the company level, employee participation programs and the like inevitably bind workers to the task of promoting the profitability of their company relative to its competitors, and thus set worker against worker in the race for higher productivity. This is the absolute antithesis of union organizing, where workers have a common interest posed against the interest of their employers.

Freeman is under contract to the commission established by his erstwhile Harvard colleague Robert Reich, so his posture is not entirely surprising. God knows what has got into Joel Rogers, who once seemed realistic about the contest between labor and capital.

The two have one obvious riposte. They say the central fact of labor organizing today is that 88 percent of U.S. workers are nonunion. So something is better than nothing, and a company union may be the first step to a proper one. But from the record available in the United States and Canada, worker-management cooperation today is exactly what management hoped it would be—a demobilizing fraud. In Canada there is no evidence that worker-management health and safety teams, which are mandatory in all plants, have been the springboard for any unionization drives. Indeed, labor organizers in both countries point to the generally obstructive role cooperative programs play in their efforts. Also, anecdotal evidence suggests that after about five years, in-plant committees cease to have any relevance at all, as management simply stops talking.

Labor's way out of its organizational decline would start with a repudiation of an earlier form of business-government-labor cooperation: the postwar compact whereby labor agreed to restrict its interventions to wages, hours and conditions, and abdicated a larger social role. If Freeman and Rogers wish to break free of the time warp of current labor law, that is the proper point of departure.

Mr. Hitchens' Little Outing

Why am I going to Aspen this summer, Christopher Hitchens asked here last week. Lots of pirouettes and entrechats followed, about "comrades" and Kurds and South Africans and how it was proper to breach the boycott. There was no need for all this nonsense. If his Aspen jaunt last year is anything to go by, Christopher is off to Colorado in June because his hosts are giving first-class airline tickets to him, his wife and his son. Against fierce competition, this was the silliest thing Christopher has ever written. Though he's opaque on the matter, I fear he may soon join William Safire, Anthony Lewis, Leslie Gelb and A.M. Rosenthal in calling for big-time military intervention in Bosnia too. It's charming to think of all of them in the same foxhole. I wonder who would be strangled first.

A New New Deal for Labor

By Richard B. Freeman and Joel Rogers

The New Deal system of labor relations no longer works for the good of the country. What's the problem and what can we do to solve it?

The Wagner and Taft-Hartley Acts ere designed to allow union repre-ntation of production workers rough secret ballot elections and to ıttress collective bargaining as a ay of dividing the national pie beveen labor and capital. But this ystem no longer protects the work-s' choice to form unions, and it ustrates the exploration of alterna-ve ways of giving workers a voice.

Toothless sanctions on unfair labor ractices have proved no match for mployer resistance to unions. As a esult, union membership in the pri-ate sector has fallen to a bare 12 ercent — less than it was before the 'agner Act was enacted in 1935!

Moreover, existing labor law has o place for workers who want inde-endent representation, if not tradi-onal collective bargaining — 90 per-ent of all workers, according to a 988 Gallup poll.

Rather than this "all or nothing" noice in representation — tradition-l unions or none at all — we propose hanges to protect workers through a wider range of choices and to promote innovation by management.

First, the Government should encourage firms to establish "employee participation committees" in the workplace. Elected by workers and terminable only at their discretion, these committees would not engage in traditional collective bargaining over wages, hours and benefits; at least in nonunion shops these would remain management prerogatives. But the committees would have enforceable rights to information and consultation with management over labor policies, as do workers councils throughout Europe. They should also be used to supplement and improve Government regulation of the workplace in such areas as occupational safety and health, job training and plant closings.

More flexibility can help workers and management.

Beyond clearly defined regulatory programs, we do not favor mandating such committees until they have proved their worth in the U.S. But Federal encouragement should be vigorous. For example, make the committees a condition for employers' tax breaks or relief from regulatory reporting.

The Government should also modify the ban on company unions. The vast majority of nonunion workers are not going to join A.F.L.-C.I.O. unions in the foreseeable future. If their employers feel that granting greater participatory rights to workers is good for the enterprise, they should be free to do so.

At the same time, however, the Government should strengthen workers' rights to form traditional unions. For starters, the National Labor Relations Board ought to reinstate "card check" certification in place of long and costly election campaigns. Authorization cards signed by a majority of employees should be enough to compel collective bargaining. Even when only a sizable minority of employees sign such cards (say, 30 percent), companies should be required to meet and confer, though not bargain collectively, with that worker organization.

Finally, the Government should toughen the protections of all workers to join unions — even if those unions represent only a minority of workers — without the threat of dismissal or discrimination.

Such reform would substantially improve the system. It would underwrite experimentation in programs of labor-management cooperation that everyone recognizes as good for productivity. It would give workers back their voice without putting management in a straitjacket. It would press organized labor to develop innovative ways to service the nearly 90 percent of private-sector workers outside collective-bargaining. And it would improve Government regulation by relying more on private energies in the workplace than armies of inspectors sent by Washington.

In brief, this program would forge one piece of the more cooperative and inclusive labor relations system America needs for competitiveness and democracy in the 21st century.□

ichard B. Freeman is professor of conomics at Harvard and director of abor studies at the National Bureau f Economic Research. Joel Rogers professor of law, political science nd sociology at the University of Visconsin at Madison.

BOOKS & THE ARTS.

Sleeping With the Enemy

DANA FRANK

NEGOTIATING THE FUTURE: A Labor Perspective on American Business. *By Irving Bluestone and Barry Bluestone. Basic. 335 pp. $25.*

The concept of harmony between labor and capital is as old as the fundamental conflict between the two. Today labor-management cooperation is on the rise again in a big way. Management's latest wave of enthusiasm began at the end of the 1970s. After profit rates fell in the late 1960s, U.S. companies sought to learn from their Western European and Japanese rivals how better to harness workers' productivity. They discovered, designed and implemented multiple programs such as Quality of Work Life, the "team concept" and employee participation. By 1987, according to one survey, 70 percent of U.S. companies had instituted some form of employee involvement.

With *Negotiating the Future: A Labor Perspective on American Business*, Irving and Barry Bluestone present the strongest case so far for labor-management cooperation from organized labor's side. Both authors carry a great deal of legitimacy. Irving Bluestone was vice president of the United Auto Workers (U.A.W.) and director of its General Motors Department until 1980. His son Barry Bluestone, a professor of political economy at the University of Massachusetts, Boston, is the author, with Bennett Harrison, of *The Deindustrialization of America* (1982) and *The Great U-Turn: Corporate Restructuring and the Polarizing of America* (1988).

The Bluestones' new work should be taken very seriously. Not only will all of us who turned to Barry Bluestone's previous books as accessible road maps to the 1980s and 1990s open his latest with anticipation, but a large audience across the political spectrum will find the Bluestones' arguments attractive. Robert Reich, the new Secretary of Labor, blesses them from the inside jacket flap, while no less than Bill Clinton himself graces the back cover, endorsing the Bluestones' "New Covenant for labor and management based on participation, cooperation, and teamwork." The book's blueprint for labor-management cooperation is deeply appealing in its vision of worker empowerment in a time of increasing disempowerment. But its failure to address the fundamental question of ownership or to offer a viable way out of the cycle of international competition among workers makes its appeal tremendously dangerous. Attempting to implement it would be strategically fatal for both the labor movement and the situation of working people in this country.

The Bluestones say it's time to jettison the notion that when workers win, management loses and vice versa.

The Bluestones' program begins with the crisis of U.S. manufacturing. According to the authors, U.S. products can't compete in the world market because U.S. companies fail on three key fronts: quality, innovation and productivity. Only a "revolutionary leap" in labor-management relations can save American industry.

That "revolution" should begin, they argue, with a rejection of the traditional antagonistic relationship between organized labor and management. Given the exigencies of the global market, labor and management now have more in common than not. It's time for both sides to jettison the notion that when workers win, management loses and vice versa. Rather, unions and managers should bury the hatchet, reject "zero-sum thinking" and recognize that a new partnership of unions and management can create a win-win situation in which all the "stakeholders" in the company recognize and achieve common, mutually beneficial goals.

They advocate a new "Enterprise Compact" that, like the Mayflower Compact (their analogy), would be a friendly agreement among partners. Seven premises would lie at its core: mutually agreed-upon productivity targets, compensation established in correlation with productivity growth, joint price setting, quality as a "strikable" issue, guaranteed job security, profit sharing and, at the proposed compact's "very center," "joint decision making throughout the company, including labor representation on the board of directors."

Organized labor would give up contractually protected work rules and abandon controls on productivity, enlisting itself wholeheartedly in management's efforts to compete and produce a profit. In return, management would contractually guarantee employment security and give up its traditional "management-rights clause," which has long walled unions and their members off from participation in corporate decision making. In exchange, management would gain workers' initiative: all the creativity, knowledge and good will that would be unleashed if workers were fully committed to the success of the company.

At the center of the Bluestones' vision is General Motors' experimental Saturn plant in Spring Hill, Tennessee, where, they assert, "joint action" prevails. Union and management together discuss all issues of importance to the product's success, from hiring decisions to the choice of suppliers to compensation for executives. Decisions are reached by consensus. With workers' potential unleashed, the "grand experiment" at Saturn promises a way out for the crisis of American manufacturing.

Understanding what's so treacherous about this kind of labor-management cooperation begins with careful attention to the basic assumptions in this book about the nature of the crisis. Who is the "we" in trouble in the Bluestones' depiction? They speak of the "stakeholders" in U.S. companies—labor, management and stockholders—who must join together to fight the enemy: manufacturers outside the United States, with whom "we" must learn to compete. Not only is this a severely nationalist approach, but the partner and the enemy here are often the same. Ford owns 25 percent of Mazda; Chrysler owns 24 percent of Mitsubishi. In 1991 the Big Three automakers built almost 600,000 cars and trucks in Mexico, of

Dana Frank, who teaches American studies at the University of California, Santa Cruz, is the author of Purchasing Power: Seattle Labor and the Politics of Consumption 1919-1929 *(to be published by Cambridge in November).*

which they imported 275,000 back into the United States. In entering a team race against "foreign" manufacturers, in other words, U.S. workers are teaming up with the very same capital that they are competing with. The nation or "we" in trouble here are workers in the United States, not necessarily their employers. One quote from *Business Week*, in a cover story on the flight of U.S. auto plants to Mexico, captured this distinction perfectly: "With a savings of up to $1,000 a car, the new partnership between First and Third World neighbors could get the U.S. auto industry back into the race with Japan." The "U.S. auto industry," here, is neatly separable from any actual U.S. workers.

Even once a given amount of capital is invested in a domestic plant, the stakes of the different "stakeholders" are not the same. In the Bluestones' vision, outside capital, not the workers, still owns the plant. It still controls the board of directors. In all but one of their examples, the authors speak of only a single observing member, largely disempowered, from labor's camp. The other directors and the managers they hire still answer to Wall Street. The plant's owners still have the power to sell it, shut it down or go bankrupt.

However much the Bluestones disparage antagonism, fundamental conflicts between management and workers pop up throughout the book. They even acknowledge that workers have vital self-interests to protect, which is why the authors grant that employees will still need union protection under the new system. A good place to see those opposing interests is in the question of productivity, the linchpin of the book's promise of mutual benefits.

Advocates of employee involvement stress its positive effect on productivity. Much of that effect, though, comes from plain old speedup, unleashed now because workers let up on their defense of the workplace rules for which they have fought for a century. Those work rules, governing the pace of work, who will perform it and under what conditions, are precisely what management sees as the bugaboo of U.S. competitiveness. Yet they also make the often inhuman conditions of manufacturing labor bearable, allowing workers breathing space, such as small rests that they themselves control. With employee involvement, workers are lured into relaxing their self-protection and speeding themselves up in the name of profits.

Another advantage management gains from these programs is access to workers' knowledge of the actual work process, a key bargaining chip for workers, collectively and individually. Workers have all kinds of creative and smart ideas about how to redesign products and the work process. To get access to that knowledge, management needs to win over the workers' good will by convincing them that their ideas about how to make a better product (often involving fewer workers) will not be used against them—to lay workers off, for example. The catch is, once workers give those ideas over to the company, given its current ownership status and the realities of the internationalization of the corporation, that knowledge then belongs to the company. It can be implemented not only in Spring Hill, Tennessee, but in Flint and Hermosillo. Korean and German and Japanese companies learn the trick. Soon they all know it.

Workers, unfortunately, cannot win at this game. Enterprise unionism, exemplified by the Bluestones' approach, has long been criticized because it plays plant against plant, worker against worker, community against community. It structurally discourages solidarity among different groups of workers. Saturn's U.A.W. members, for example, when they "jointly" select parts suppliers, sometimes choose non-U.A.W., nonunion companies. Enterprise unionism also plays into the corporate strategy known as whipsawing, in which the corporation induces one of its plants to compete again and again with others. Workers who join with management in order to increase their productivity in this context enter an endless downward spiral in which they give up more in each round.

The most appealing element of the Bluestones' program, for which workers are to give up so much, is the promise of job security. Yet only organized workers would obtain it. A whopping 86 percent of all nongovernmental employees are unorganized, including the vast majority of white women and people of color, and thus lack unions to bargain their friendly ways into an Enterprise Compact. Equally important, how can a capitalist business really guarantee true job security? Under the Bluestones' Enterprise Compact even unionized companies would still be allowed to reduce their labor force by attrition. Attrition is not as benign as it sounds. Unable to fire disruptive or older workers, management can still drive them to quit by making their lives intolerable. Older workers, with years of workplace injuries, are less productive, after all. "Catastrophic" events, the Bluestones grant, could certainly cause layoffs. Is the current crisis at G.M. catastrophic? Bankruptcies certainly are. So are mergers and acquisitions. Throughout the country workers are being sped up or laid off because of the debt burdens corporations have acquired in the past decade.

The Bluestones understand this, and want workers to have control over precisely such dynamics. The problem is that a union that entered into a compact such as they advocate would have no real enforcement power for job security, long-term investment or most other fundamental questions. The Bluestones speak of the decision-making process within Enterprise companies as one of "consensus" within a context of "joint action." But there is little institutionalized power in their model to force management to reach consensus or abide by it.

Ultimately, the Bluestones' implicit model is Germany, where unions and managers "codetermine" the future and management of their companies. The problem is that the United States in 1993 is not Germany. Here there has been no mass labor movement for decades committed to forcing management into an equal partnership on a grand scale. There is no state support, as in Germany, for such an arrangement because there is no political party of workers here to demand it and win it. The Bluestones end with laudable exhortations for reformed labor laws in the United States. This is how they propose to help organize the unorganized. But why should those in power pass such laws?

The U.S. labor movement is at its weakest moment in the past century. In a context of fierce unionbusting, many in the A.F.L.-C.I.O. leadership, especially the U.A.W., are attracted to management's rhetoric of partnership and empowerment, happy to be invited to the party at all. With no other long-term vision of working-class power, they are walking right into a trap.

The big danger is that once down the path of amicable partnership, there won't be any labor movement left to bring about codetermination or anything else. Unions premised on burying the hatchet and celebrating common goals with management could not simultaneously commit themselves to building an independent political party representing working people's independent interests, and thus would be unable to gain state support for organizing the unorganized. And they would be structurally biased against solidarity with different unions and groups of workers.

Management, in sum, is oh-so-smart in pressing for union-management cooperation. They've figured out how to put up a smokescreen of power sharing without giving the big things up. They've figured out how to harness individual workers' craving for a meaningful workplace experience in which their ideas and creativity matter. And they've figured out how to bust unions like never before, so well that much of the labor movement doesn't think it's war. As Donald Wells, who has studied Quality of Work Life programs, put it, "Labor's enemies talk of peace as they carry on war."

Many in the labor movement are quite aware that there's a war going on. The question is what to do about it. Critics of employee involvement are testing three approaches, not mutually exclusive: First, fight the initial introduction of employee-involvement schemes. Second, if they are already in place, or can't be prevented, then bore from within. Take part in the joint decision-making process and use it to expose the unequal power dynamics and inherent contradictions of these programs.

The third, most challenging approach is to take the rhetoric of employee participation at its word and seize the objective of worker empowerment for the union's side. Workers' self-management is a good idea. We're all for it. But why stop with "jointness"? Why not get rid of management altogether, if workers are so important and so good at managing? There's also the all-important question of distribution. Why are profits necessary anyway? Why should they be guaranteed?

Capital is increasingly international now. As the flight of auto plants to Mexico underscores, U.S. corporations are transnational and not loyal to any particular working population. The only real answer to the global competitiveness "crisis" is to get out of the game altogether. The labor movement needs to think in terms of international solidarity. Auto workers, for example, have formed trinational networks in response to the North American Free Trade Agreement. Structurally, the rules of the game provide us with no other choice. Either compete in the endless downward spiral, or join together to reject that game.

We live in seductive times, in which the Clinton Administration is luring many into a corporate agenda as never before and in which it is not fashionable to suggest one might still have a vision of a noncapitalist society. Partnership is the order of the day. "It's time to move away from the adversarial process," announces Carol Browner, the new head of the Environmental Protection Agency, as Al Gore eschews the "false choice" between the environment and business. Clinton celebrates the Bluestones' Enterprise Compact as part of his New Covenant. But fundamental questions of ownership and power remain untouched. Said the spider to the fly, Come cooperate on my web. □

Since 1897 Minnesota's leading labor newspaper

the Union Advocate

Vol. 96, No. 17 5063 January 25, 1993

Conference to raise questions about workplace cooperation

By DAVID ZLATCHIN
Union Advocate Staff Writer

ST. PAUL — In recent years, large numbers of American employers have turned to "quality" programs in the workplace. These management programs have various names: team concept, employee involvement, quality circles and Quality of Work Life.

As the frequency of these programs increases, so has the criticism from unions and labor activists. "These programs have successfully dismantled the American labor movement," charges Tom Laney, an officer of United Auto Workers Local 879 and member of the New Directions movement, which opposes team concept. UAW Local 879, the St. Paul Trades and Labor Assembly and 14 other labor groups are sponsoring an all-day conference Saturday, Jan. 30, to scrutinize employee involvement programs.

Entitled "Meeting the Challenge," the conference will feature several presentations including case studies, historical perspectives and an international viewpoint from Japan where the team concept has become dominant.

Participants will attempt to critically analyze types of labor-management "jointness" or "cooperation." The conference is intended to "explicitly oppose these types of cooperations," said Jane Slaughter, a Labor Notes writer and national expert on employee involvement who will be a featured speaker.

A key element of a "quality" program is usually a small group process whereby management solicits worker suggestions for improving the workplace.

Often, workers are given time off the job to meet with management and "are even enticed by free meals and trips," according to Bruce Glover, chairman of Brotherhood of Maintenance of Way Employes at the Burlington Northern. He will discuss his union's experiences with quality circles in the railroad industry.

The programs have various names: team concept, employee involvement, quality circles, QWL.

The "quality" discussions usually generate ideas for improving the work environment, such as a new water fountain, better ventilation or ways to improve product quality. "Management would agree wholeheartedly to small things," noted Glover, "but once we asked for bigger things they would turn their backs."

Conference presenters will assert that quality programs are not worker-oriented at all, but rather are instituted for one objective: to lower costs to the company.

The results of these programs, said Slaughter, is the elimination of jobs, speedup of work, and "ways for workers to do more work in less time, subcontracting to other cheaper, often non-union companies," as well as other cost-cutting measures. Often, when workers voice reluctance to the team approach, management threatens to close the plant, she said.

The cooperation programs use appealing rhetoric and gimmicks such as a 'worker's say,' 'dignity,' and 'respect,' "yet the substance of team concept is quite different from the promises by management," said Slaughter.

Greg Poferl, national business agent for the American Postal Workers Union and another conference speaker, called quality programs "simply the slick repackaging of old and worn-out schemes to squeeze more productivity from the employee."

Workers and unions suffer when cooperation with management turns into competition with one's fellow workers.

"These types of programs pit worker against worker, and they weaken the union if not in its entirety, at least the image of the union," Glover claimed. "It simply dilutes the union's strength."

Added Poferl: "The only thing that has come from management's expensive reliance on these committees has been a labor force that is divided."

The goals of the conference, organizers said, include not only informing union members and the public about team concept programs, but beginning to examine alternatives. "Union activists need to go beyond saying no to programs," said Macalester College History Professor Peter Rachleff. "They need a positive strategy for unions so that they can again become a power in the workplace."

In addition to Rachleff, Slaughter, Glover and Poferl, speakers at the conference will include Ben Watanabe, former president of the South Tokyo Local of the National General Workers Union. He will talk about "how Japanese employers coerce workers to cooperate."

The conference, which will be held at the Weyerhauser Chapel at Macalester College in St. Paul, is free and open to the public. For more information, call (612) 854-0093

From the New Labor Notes Book:

Labor-management participation programs are rarely successful in meeting their stated goals. This is one conclusion of a new book on joint programs about to be published by Labor Notes.

The book, tentatively titled Working Smarter the Union Way: A Guide to Participation Programs and Reengineering, *will be available by December 1.*

It updates and expands on Labor Notes' earlier books in this field. Inside the Circle *(1985) dealt with the quality circle phenomenon.* Choosing Sides *(1988) explored the team concept and management-by-stress. The new 40-chapter book builds on these earlier efforts, but covers much new ground. Besides dealing with manufacturing, it discusses joint programs in such areas as public employment, health care, telecommunications, the postal service, and more. Unionists who have been dealt with the joint programs in their own industries have written most of these case studies.*

The following excerpt from Chapter 12 examines how it is that most programs fail, and why employers like them anyway.

★ ★ ★ ★ ★

by Jane Slaughter and Mike Parker

According to their supporters, labor-management participation programs are "win-win" for everybody involved. Firms or government agencies nurture quality and produce goods and services at the lowest possible cost. Customers get what they want. As a result companies remain competitive, stay in business, and even grow. Workers have job security and owners make profits.

Better yet, we are told, this happy state of affairs is achieved through another "win-win" arrangement: management has learned that its most valuable resource is its employees. When managers grant dignity, respect, and participation, employees respond by contributing their ideas and energy.

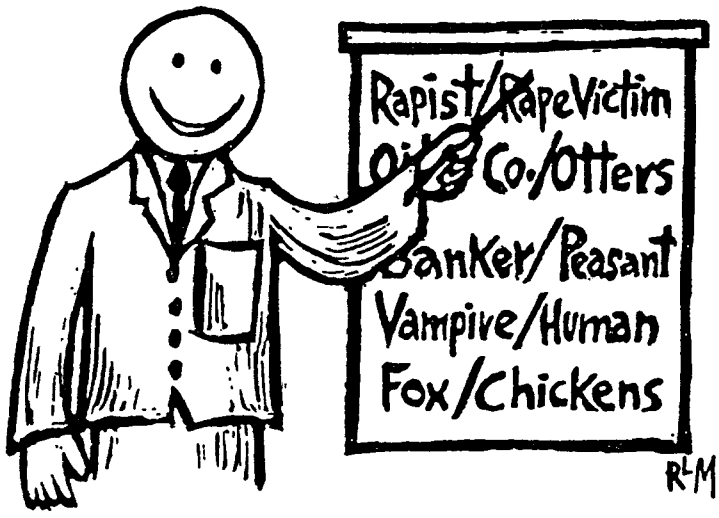
No one can oppose quality. And with "win-win" as part of the deal, how could a union even conceive of opposing a participation program? Consultant Masaaki Imai charges that

> [unions], by obstinately opposing change, often succeeded in only depriving their members of a chance for fulfillment, a chance to improve themselves.

And yet when participation programs are instituted, unions are asked to tear up contract protections that have taken years, and often intense struggle and sacrifice, to win.

If we look beneath the cheerful rhetoric of participation programs, we find a great deal of confusion—on management's side as well as the union's. And the reality that emerges has little to do with quality, as we usually understand the term, or worker participation, and a lot to do with tighter management control and speed-up. It's a system we call "management-by-stress."

In this section we will analyze participation programs. This chapter will present some evidence to show that they don't "work" on management's stated terms, and why management likes them anyway.



"Our workplace cooperation philosophy can easily be applied to other areas of conflict."

Chapter 13 will examine why such programs appeal to union members and the hidden messages contained in participation training. Chapter 14 will explain the implications of management's definitions of quality, the "focus on the customer," and the "internal customer," culminating in the notion of "return on quality." Chapter 15 will look at the notion of mutual interests, labor-management "partnership," and gainsharing.

Chapter 16 is a checklist of the dangers inherent in participation programs. Chapters 17 and 18 look at these programs' particular effect on minorities and women in the workplace. Chapters 19-25 are case studies of participation programs in a variety of workplaces.

DO PARTICIPATION PROGRAMS WORK?

Participation programs are a moving target. Over the past 15 years management has jumped from fad to fad: quality of work life, team concept, TQM, re-engineering.

Each of these fads has been trumpeted by success stories in the press—few companies publicize their failures. Many of the success stories turn out to be self-serving, written by the consultant who shepherded the program or initiated by a company eager for the positive publicity. But it is striking how many serious academic studies find little success for these programs *on their own terms*, let alone by union standards.

One review of the research concluded:

> In a majority of empirical studies, direct participation is associated with at least a short-run improvement in one or more of the following variables: satisfaction, commitment, quality, productivity, turnover, and absenteeism.... Nevertheless, only a small proportion of participation programs can be classified as a long-term success. After a brief honeymoon, most plans peak and peter out.

Here are some results from the electronics industry:

> In a 1991 survey of more than 300 electronics companies, sponsored by the American Electronics Association, 73% of the companies reported having a total quality program under way; but of these, 63% had failed to improve quality defects by even as much as 10%. We believe this survey underestimates the magnitude of the failure of activity-centered programs not only in the quality-conscious electronics industry but across all businesses.

TOTAL QUALITY DISASTERS

In one of the most extensive studies to date, Maryann Kelley and Bennett Harrison analyzed data from over a thousand metalworking plants. They found factories with participation programs to be *less* efficient than those without. Single-plant firms with participation programs required almost 30% more production time per unit, and branch plants of large corporations with participation programs required over 60% more time per unit, than did plants without such programs.

'Why Participation Programs Endure'

The authors of a TQM textbook, Bruce and M. Suzanne Brocka, estimate that "for every successful implementation, such as Motorola, there are 20 more disasters." The Leads Corporation, self-described "leader in the field of Total Quality Management," sends out a brochure soliciting customers that declares: "Although thousands of organizations have spent millions on TQM training, 80% of all TQM initiatives are stalled or failing."

Business journals do not hesitate to run articles bemoaning the high failure rate of participation/quality programs. Very little of this criticism appears in the popular press, which appears to accept participation programs unquestioningly.

TQM advocate Steven Brigham summarizes business studies of TQM:

> Surveys conducted by Arthur D. Little, A. T. Kearney, Ernst and Young, McKinsey and Company, and Rath and Strong...have reached similar conclusions: in more cases than not, TQM has failed to produce its promised results.

THE BALDRIGE AWARD

Brigham falls back on what seems to be the standard explanation: these studies do not show that TQM itself is seriously flawed. Rather, "the implementation is deficient, even erroneous." According to Brigham, "The best evidence that TQM 'works' comes from a May, 1991 U.S. General Accounting Office (GAO) report that examines the impact of TQM on the performance of [20] U.S. companies that were among the highest scoring applicants in 1988 and 1989 for the Malcolm Baldrige [National Quality] Award."

Let's examine this best evidence. The U.S. Department of Commerce, which sponsors the Baldrige Award, acknowledges that it does not seek to measure the quality of a company's products or services. The Baldrige evaluators look only at whether the company has in place certain internal organizational forms and procedures, such as ways to keep statistics on conformance to specifications. Companies are self-nominated and spend large amounts of time on paperwork and fees.

Now comes the GAO seeking to study the impact of TQM. The GAO doesn't compare TQM users to non-users, or users' practices before and after TQM. Nor does the GAO devise its own independent measures of success. Instead, the GAO asks those applicants who scored high on the Baldrige TQM scale how they evaluate themselves on employee relations, operating procedures, customer satisfaction, and financial performance.

Is it reasonable to expect that a company that tried TQM and saw no changes would bother applying for the Baldrige Award? In effect, the GAO methodology is to ask people who think their TQM works whether they think their TQM works.

Management's primary interest in participation programs is not to tap the potential of the workforce, but to figure out how to cut and squeeze the workforce.

Although it began with a strong bias in favor of participation programs, in its May 1994 Fact Finding Report the Commission on the Future of Worker-Management Relations (the Dunlop Commission) states:

> While most of those testifying about their efforts reported their programs resulted in improved productivity, quality, or some other indicators of economic performance, the empirical studies on this issue completed to date show mixed results....
>
> Studies that have attempted to isolate the individual effects of single programs such as quality programs or teams tend to find small or insignificant effects on performance.

Still trying to make the case for participation programs, the Commission cites some studies that, it asserts, do report economic benefits, if participation is combined with other changes in management structure and policies. Unfortunately, however, the studies they cite prove no such thing.

There is no way of separating out whether the participation program caused anything at all. It's as if a researcher said, "If you feed a rat celery and ice cream it gets fat; therefore celery must make rats fat." One study grouped participation programs with such policies as job rotation and whether quality inspection is assigned to production workers. Another combined teamwork with such items as incentive plans and extensive screening in hiring.

WHAT IS SUCCESS?

Figures like "80% failure" or "20 out of 21 are disasters" seem to be part of a tradition in the quality movement of made-up numbers to give the appearance of scientific precision to words like "most" or "many."

One reason the statistics are all over the place is that there is no agreement about what constitutes a program's "success" and what constitutes failure. Does a program fail when it shows no productivity increase, or when management ends it, or when people stop coming to meetings? Is a program that cuts jobs by 30% a success or a failure? As long as the definitions are fuzzy, the fiction of common interests can be maintained. Once success and failure are defined sharply, it becomes clear that different players, and particularly management and workers, have different interests in the game. We discuss this topic more in chapter 15.

We believe that genuine participation on the job—real say over working conditions, methods, and goals—would be great for workers. We believe it would boost quality as well—though this must remain unproven until workers win this kind of power somewhere.

We put together two facts: 1) the very weak evidence that participation programs themselves do management much good, and 2) the reality that employers are attacking workers in every aspect of economic and social life, as discussed in Section I. We believe these are strong evidence for the conclusions that:

1) Management's primary interest in participation programs is not to tap the potential of the workforce, but to figure out how to cut and squeeze the workforce.

2) The claims made for these programs' benefits are no reason for unions to toss away past protections or give up union power. □

Work Smart! Buy Smarter!

Labor Notes' new book, *Working Smarter the Union Way*, will be available at a special pre-publication price, only until December 1.

Order now....Only $17.50

See page 15 to order.
Orders will be shipped about December 1.
Autographed copies available on request.
Regular price (undetermined at press time) will be at least $20.
For information on quantity orders, call the Labor Notes office at 313/842-6262.